

COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS

AGENDA ITEM TRANSMITTAL

(1) DEPARTMENT Planning and Building		(2) MEETING DATE February 7, 2006		(3) CONTACT/PHONE Mike Wulkan/(805) 781-5608	
(4) SUBJECT Continued hearing on environmental determination For Tentative Tract 2251/Development Plan D990109D/Coastal Development Permit; Anastasi Construction Co.					
(5) SUMMARY OF REQUEST This item was continued for up to six months from the July 26, 2005 Board of Supervisors hearing in order to allow time for the applicant and the U.S. Fish and Wildlife Service to reach an agreement regarding endangered species. At this time, an agreement has not been reached. In addition, since July 2005, uncertainty over construction of a community wastewater project has resulted in a greater potential for the proposed project to have impacts on water supply and wastewater. This item is to consider whether to prepare an Environmental Impact Report (EIR) or refer back to the Environmental Coordinator to prepare an Expanded Initial Study and/or Negative Declaration for the following proposed project: a request by Anastasi Construction Co. for a vesting Tentative Tract map, Development Plan and Coastal Development Permit to subdivide an existing 9.1-acre parcel into 42 parcels ranging from 6,000 to 15,022 square feet, including 40 residential parcels, a park and detention basins, for the purpose of sale and/or development. The proposed project will create three on-site roads and is within the Residential Single Family land use category. The project is located on the east side of Pecho Valley Road, approximately 350 feet south of Montana Way in the community of Los Osos. The site is in the Estero Planning Area.					
(6) RECOMMENDED ACTION The Environmental Coordinator recommends the Board of Supervisors require that an Environmental Impact Report (EIR) be prepared for the proposed project.					
(7) FUNDING SOURCE(S) Applicant		(8) CURRENT YEAR COST N/A		(9) ANNUAL COST N/A	
(10) BUDGETED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> N/A <input type="checkbox"/> NO					
(11) OTHER AGENCY/ADVISORY GROUP INVOLVEMENT (LIST): Public Works, Environmental Health, Air Pollution Control District, General Services – Parks, Regional Water Quality Control Board, CDF/County Fire, and the U.S. Fish and Wildlife Service. A copy of the Initial Study was referred to the Los Osos Community Advisory Council.					
(12) WILL REQUEST REQUIRE ADDITIONAL STAFF? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes, How Many? _____ <input type="checkbox"/> Permanent _____ <input type="checkbox"/> Limited Term _____ <input type="checkbox"/> Contract _____ <input type="checkbox"/> Temporary Help _____					
(13) SUPERVISOR DISTRICT(S) 1st, <u>2nd</u> 3rd, 4th, 5th, All			(14) LOCATION MAP <input checked="" type="checkbox"/> Attached <input type="checkbox"/> N/A		
(15) AGENDA PLACEMENT <input type="checkbox"/> Consent <input checked="" type="checkbox"/> Hearing (Time Est. 60 minutes) <input type="checkbox"/> Presentation <input type="checkbox"/> Board Business (Time Est. _____)			(16) EXECUTED DOCUMENTS <input type="checkbox"/> Resolutions (Orig + 4 copies) <input type="checkbox"/> Contracts (Orig + es) <input type="checkbox"/> Ordinances (Orig + 4 copies) <input checked="" type="checkbox"/> N/A		
(17) NEED EXTRA EXECUTED COPIES? <input type="checkbox"/> Number: _____ <input type="checkbox"/> Attached <input checked="" type="checkbox"/> N/A			(18) APPROPRIATION TRANSFER REQUIRED? <input type="checkbox"/> Submitted <input type="checkbox"/> 4/5th's Vote Required <input checked="" type="checkbox"/> N/A		

(19) ADMINISTRATIVE OFFICE REVIEW

Ok Leslie
3pm

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2-7-06



SAN LUIS OBISPO COUNTY DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP
DIRECTOR

TO: BOARD OF SUPERVISORS

FROM: MIKE WULKAN, SENIOR PLANNER

VIA: ELLEN CARROLL, ENVIRONMENTAL COORDINATOR *Ellen*

DATE: FEBRUARY 7, 2006

SUBJECT: CONTINUED HEARING ON ENVIRONMENTAL DETERMINATION FOR
TENTATIVE TRACT 2251/DEVELOPMENT PLAN D990109D/COASTAL
DEVELOPMENT PERMIT; ANASTASI CONSTRUCTION CO.

RECOMMENDATION

The Environmental Coordinator recommends the Board of Supervisors require that an Environmental Impact Report (EIR) be prepared for the proposed project.

DISCUSSION

July 26, 2005 Board of Supervisors Action

This item was continued from the July 26, 2005 Board of Supervisors hearing, at which your Board heard testimony that the applicant and the U.S. Fish and Wildlife Service were close to reaching an agreement regarding endangered species. As a result, this item was continued until 30 days following a response by the U.S. Fish and Wildlife Service in that regard, not to exceed a period of six months. Since no agreement had been reached by mid-January 2006, this item was renoticed for today's agenda--approximately six months from the July 26, 2005 hearing.

Changes Since the July 26, 2005 Hearing

The major change in circumstances that has occurred since the July 26, 2005 Board hearing is the status of the planned Los Osos wastewater treatment project. At the time of the July 2005 hearing, the wastewater project had been approved and was close to the start of construction. Since that time, the Los Osos Community Services District (LOCSO) has decided not to pursue the previously approved project. As a result, construction of a new wastewater project is uncertain at this time, and the affects of a new project on the groundwater supply are unknown. This has implications on the potential for significant environmental impacts regarding water and wastewater, and the Initial Study (see Exhibit D) has been revised accordingly. The main changes in the Initial Study are 1) there is a greater potential for significant impacts to water supply due to the uncertainty over construction of a sewer system, and how such a system might affect groundwater recharge and safe yield of the groundwater basin, and 2) there is a greater potential for impacts on wastewater, because no sewer project is currently proposed.

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Project History

The proposed project is a request by Anastasi Construction Co. for a vesting Tentative Tract map, Development Plan and Coastal Development Permit to subdivide an existing 9.1-acre parcel into 42 parcels ranging from 6,000 to 15,022 square feet, including 40 residential parcels, a park and detention basins, for the purpose of sale and/or development. The land division includes three on-site roads. The project site is within the Residential Single Family land use category and is located on the east side of Pecho Valley Road, approximately 350 feet south of Montana Way in the community of Los Osos (see Exhibit A).

The proposed project was accepted for processing on January 8, 2000. The original project description included a proposal to connect to the privately owned Monarch Grove (Tract 1589) wastewater treatment plant until such time as a communitywide sewer system for Los Osos became available.

Since the time this application was accepted for processing, three issues have held up processing of the project: 1) lack of a community sewer system that could adequately handle discharge from the proposed project, 2) serious questions about adequacy of the water supply; in particular, the ability to satisfy the requirements of the interim service capacity allocation standards in the Estero Area Plan, and 3) the lack of an approved Habitat Conservation Plan or other clearance from the U.S. Fish and Wildlife Service regarding endangered species on the site.

On December 9, 2004, the Planning Commission considered an appeal by Anastasi Construction Co. of a Planning Director decision [pursuant to Coastal Zone Land Use Ordinance Section 23.01.042b(1)(ii)] that there was insufficient information to process or conduct environmental review for the proposed project. Due to new circumstances and information, staff and the Planning Commission agreed with the applicant that the project should continue to be processed, including an environmental review. The new circumstances and information that enable continued processing of the application included the fact that the applicant, in early 2004, revised the project description to include connection to the former, approved communitywide sewer system for Los Osos, so a tentative map could potentially be approved with a condition to connect to that sewer system. In addition, in November 2004, the U.S. Fish and Wildlife Service responded to a referral from Planning staff regarding impacts to endangered species from the proposed project. However, the U.S. Fish and Wildlife Service has not yet taken action on a Draft Habitat Conservation Plan that was prepared for this project and submitted in November 2003.

Environmental Issues

An Initial Study was prepared on April 18, 2005, and most recently revised on January 24, 2006 (see Exhibit D). Based on the Initial Study, the Environmental Coordinator determined that the proposed project may have a significant effect on the environment, and that an Environmental Impact Report (EIR) is therefore required. The Initial Study concludes that the impacts associated with water use, cumulative water use, biological resources, geology and soils (drainage), transportation/circulation, aesthetics, land use, and wastewater cannot be minimized to less than significant levels and need to be

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addressed in an EIR. The applicant disagreed with the EIR determination (see April 28, 2005 letter from Anastasi Development Company, LLC in Exhibit B), and requested this matter be brought to the Board of Supervisors, as provided in the County CEQA Guidelines.

EIR Required

The determination of whether to prepare a Negative Declaration or an EIR is subject to the "fair argument" test, according to case law. If a fair argument can be raised on the basis of "substantial evidence" in the record that the project may have a significant adverse environmental impact--even if evidence also exists to the contrary--then an EIR is required.

Water Use

Background:

Water is to be provided by a community system. Cal Cities Water, the water purveyor for this part of Los Osos, has issued a "will-serve" letter dated March 8, 2005. The water source is the Los Osos groundwater basin.

The Los Osos Community Services District (LOCSO) *Water Management Plan*, completed in July 2005, concludes that the Los Osos groundwater basin is currently in overdraft, as the demand exceeds safe yield by approximately 150 afy. Safe yield in the lower aquifer is currently being exceeded by 650 afy, causing seawater intrusion in the lower aquifer.

The Management Plan also estimates the water demand at buildout under the proposed Estero Area Plan update for the combined service areas of the community's three principal water purveyors, compared to the estimated safe yield of the groundwater basin. The Plan concludes that in the absence of a wastewater system, buildout demand would exceed the safe yield by 750 afy. Assuming construction of the *previously* planned wastewater system (which is no longer proposed by the LOCSO), buildout demand would exceed the safe yield by 370 afy. This deficit would have to be made up by a combination of water conservation, wastewater reclamation and supplemental water.

Based on the findings of current overdraft and seawater intrusion, The *Annual Resource Summary Report, 2005*, recommends a Level of Severity III for the Los Osos Valley groundwater basin. In December 2005, the Board of Supervisors directed staff to work with the Los Osos water purveyors to compile the necessary information to prepare a resource capacity study on water supply in the Los Osos Valley groundwater basin.

The proposed project could use about 34 acre-feet/year of water for indoor purposes, under a reasonable "worst case" scenario. Additional water would be used for landscaping and possibly for irrigation of a proposed small park site.

At the July 26, 2005 Board of Supervisors hearing, the applicant's representative, Jeff Edwards, testified that the site has been cultivated in the past, and an on-site well has historically used 27 acre-feet of water per year. Aerial photographs submitted by Mr. Edwards dating from 1972, 1988 and 1991 show clear evidence of cultivation; the 1995 and 2002 aerial photographs are less clear in that regard. No substantial irrigation has occurred recently, although in the past month, area residents have reported plans for an irrigated blueberry patch on the site. The applicant has also stated his intention to

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abandon use of the existing well as a condition of approval of the proposed project, thereby helping to reduce saltwater intrusion in this western portion of the groundwater basin.

No documentation has been submitted to verify the amount of historic irrigation on the site and whether that irrigation occurred on a continual or an intermittent basis. Furthermore, even if it were verified that there was a continual, historic use of 27 acre-feet of water per year, that amount may be less than the amount of water use by the proposed project, considering domestic use and irrigation of yards and the proposed park site. The EIR should further evaluate how historic water use compares to proposed water use, and how abandonment of the existing well would affect saltwater intrusion.

Conclusion:

Cal Cities Water will serve the proposed project; however, the groundwater basin is currently in overdraft. In addition, the estimated safe yield of the groundwater basin, with operation of the *formerly* planned LOCSD wastewater project, is sufficient to accommodate this proposed development, but that planned wastewater project is no longer being pursued by LOCSD, and the future of a wastewater system for the community is uncertain at this time. Moreover, if a new wastewater project were proposed in the future, the groundwater recharge assumptions used to calculate the basin's safe yield in the LOCSD *Water Management Plan*, which were based on the *previously* planned wastewater project increasing safe yield, would not necessarily apply to a future, new wastewater project. Therefore, although connection to the LOCSD wastewater system is part of the project description for this tract, the future of a wastewater system for the community is uncertain, the type of system is unknown, and the affect on the safe yield of the groundwater basin, if any, is also unknown. Due to the existing overdraft of the groundwater basin and saltwater intrusion, together with uncertainty over future construction of a sewer system and how it might affect the safe yield of the basin, this project could result in potential significant impacts on water supply and water quality. In addition, this project, when considered together with future development that could occur under the Estero Area Plan, may result in significant cumulative impacts on water supply and quality for the following reasons: 1) the latest safe yield estimates for the groundwater basin show that the safe yield is not sufficient to accommodate buildout under the Board of Supervisors-approved Estero update, even with operation of the *formerly* planned community wastewater project; 2) wastewater reuse and conservation programs would help reduce the gap between safe yield and demand, but implementation of such programs can not be assured; and 3) some amount of supplemental water will be needed, but there are currently no plans to obtain such water. Therefore, potential water supply and quality impacts, as well as cumulative impacts, will need to be addressed in the EIR.

Biological Resources

Background:

The site has been used for irrigated crops in the past, but currently has little or no vegetation, other than grasses. However, the site is comprised of soils that support coastal dune scrub vegetation, which supports endangered species.

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Vegetation surveys in 1998 and 2003 showed limited areas of plants characteristic of coastal dune scrub communities (see Exhibit C). The federally endangered Morro shoulderband snail was present on the site in 2000, if not later. Since 2003, vegetation has been removed on the site, removal of habitat for endangered species has occurred, and "take" has likely occurred, according to the U.S. Fish and Wildlife Service.

In November 2003, a Draft Habitat Conservation Plan (HCP)/Environmental Assessment (EA)/Implementation Agreement (IA) prepared by the Morro Group for this project, together with another nearby site under the same ownership, was submitted to the U.S. Fish and Wildlife Service. The Draft HCP proposes primarily off-site mitigation for impacts to the Morro shoulderband snail. To this date, the U.S. Fish and Wildlife Service has not processed or commented on the Draft HCP for this project.

The proposed subdivision, development and grading for 40 homes, a park, detention basin, and streets would disturb the entire 9.1 acre-site.

Conclusion:

Grading and development of the proposed project would constitute a significant, adverse environmental impact. The exact extent of the impacts is uncertain, and an EIR should be prepared to quantify those potential impacts and evaluate proposed mitigation measures. A "fair argument" can be made to support this conclusion for the following reasons: 1) development would result in irreversible removal of potential habitat for endangered species, one of which has been present on the site; 2) if the site does not undergo further disturbance and additional "take" prior to development (which could be in several years) in accordance with Federal law, it is likely that habitat for endangered species will again begin to re-establish itself, as was documented between 1997 and 2003; 3) the site has potential to be restored as habitat for endangered species; 4) the Draft HCP for this project has not been approved by the U.S. Fish and Wildlife Service, the feasibility and effectiveness of proposed mitigation measures in that HCP have not been confirmed by independent experts, and the source of funding is not known for management and monitoring activities that will be needed under the HCP; 5) in the absence of an approved HCP for this project, all of the issues in preceding item 4) should be further addressed in an EIR before it can be determined whether proposed mitigation is feasible and will be effective.

Transportation/Circulation

Additional traffic resulting from the proposed project should not result in a significant change to the existing road service levels or traffic safety, provided that a left-turn lane is installed on Pecho Valley Road. In addition, at buildout under the proposed update of the Estero Area Plan, with planned roadway improvements and signalization of certain intersections, Los Osos Valley Road would operate at an acceptable level of service, according to the Final EIR for the area plan. However, the proposed project includes a new street connection to the adjacent Vista de Oro neighborhood. Potential traffic impacts on Los Arboles Way and Montana Way, both local streets in that neighborhood, are unknown, and should be evaluated in the EIR. In addition, the EIR should evaluate potential street connections to surrounding neighborhoods for secondary access.

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Drainage

A drainage plan and report have been prepared for this project. The report concludes that the proposed tract improvements, including streets, drainage swales and detention basins, will reduce existing runoff that drains towards Los Arboles Way (and the existing homes in the adjacent Vista de Oro subdivision) by 46 percent. In order to achieve such a reduction in runoff, drainage from the tier of lots on the north side of the proposed new street through the site ("A" Court) should be directed to the proposed detention basins rather than Los Arboles Way. In order to accomplish this, the proposed detention basins may need to be enlarged or deepened somewhat. Runoff to Los Arboles Way may require concurrence by the Los Osos Community Services District. These issues should be further addressed in the EIR.

Aesthetics

According to the preliminary grading plan for the proposed project, the pad elevations of the proposed lots on the north side of the site vary from roughly 15 to 20 feet higher than those of the houses below in the Vista de Oro subdivision, largely due to existing topography. Large, two-story houses on certain proposed lots could be visually obtrusive to residents below and incompatible with the adjacent homes, and could adversely affect privacy. Measures to avoid such impacts include limiting the height of structures on certain lots. This issue does not involve public views, but is one of visual compatibility, and could be an issue of controversy. It should be addressed in the EIR through a visual analysis and recommended mitigation measures as applicable.

Land Use

The Initial Study identified a few potentially significant land use issues. Most of those issues overlap with the topics of water use, biological resources, and aesthetics that are discussed in preceding sections. For example, one such issue involves uncertainty about whether the proposed project is consistent with the Estero Area Plan standards for "interim service capacity allocation." In that regard, it is uncertain whether the safe yield of the groundwater basin can accommodate higher priority uses such as agriculture and infill development on existing lots, as well as the proposed land division, as required by the area plan standards. Another land use issue is that the proposed project could be incompatible with the surrounding uses if large, two-story houses on certain proposed lots are visually obtrusive to residents below and adversely affect privacy. These and other identified potential land use inconsistencies should be addressed in the EIR.

Wastewater

The project description includes connection to the *previously* planned and approved LOCSD sewer system. The capacity of that sewer system was designed to accommodate effluent from this site. However, that wastewater project is no longer being pursued by the LOCSD, and the future of a wastewater system for the community is uncertain at this time. A "will-serve" letter for wastewater disposal has not been issued by the LOCSD for this project. The project could be required, as a condition of approval, to receive a final will-serve letter for connection to a LOCSD sewer system before the subdivision map is recorded and development occurs. However, construction of a community sewer system is now uncertain, and may no longer be a reasonably foreseeable project. Therefore, a potential impact regarding wastewater may result.

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The EIR should evaluate potential wastewater impacts, recommend possible mitigation measures, and evaluate possible alternative methods of wastewater disposal, such as interim connection to the privately owned Monarch Grove (Tract 1589) wastewater treatment plant.

OTHER AGENCY INVOLVEMENT/IMPACT

The Los Osos Community Advisory Council (LOCAC) agrees with the findings of the Initial Study and staff recommendation for an EIR (see letter dated 6/24/2005 in attached Exhibit B). In addition, the letter from the LOCAC expresses concerns about recent vegetation removal on the site, and about continued processing of this project in light of the current overdraft of the groundwater basin. The LOCAC also suggests that the proposed project could present barriers to the movement of wildlife.

As part of the Initial Study, the following County departments and other agencies were contacted: County Public Works, County Environmental Health, County General Services--Parks Division, CDF/County Fire, Air Pollution Control District, Regional Water Quality Control Board, California Coastal Commission, California Department of Fish and Game, and the U.S. Fish and Wildlife Service.

FINANCIAL CONSIDERATIONS

The applicant would fund preparation of the EIR.

RESULTS

An EIR would identify and evaluate mitigation measures and project alternatives that would reduce potential impacts to the maximum extent feasible regarding water use, biological resources, and other identified topics.

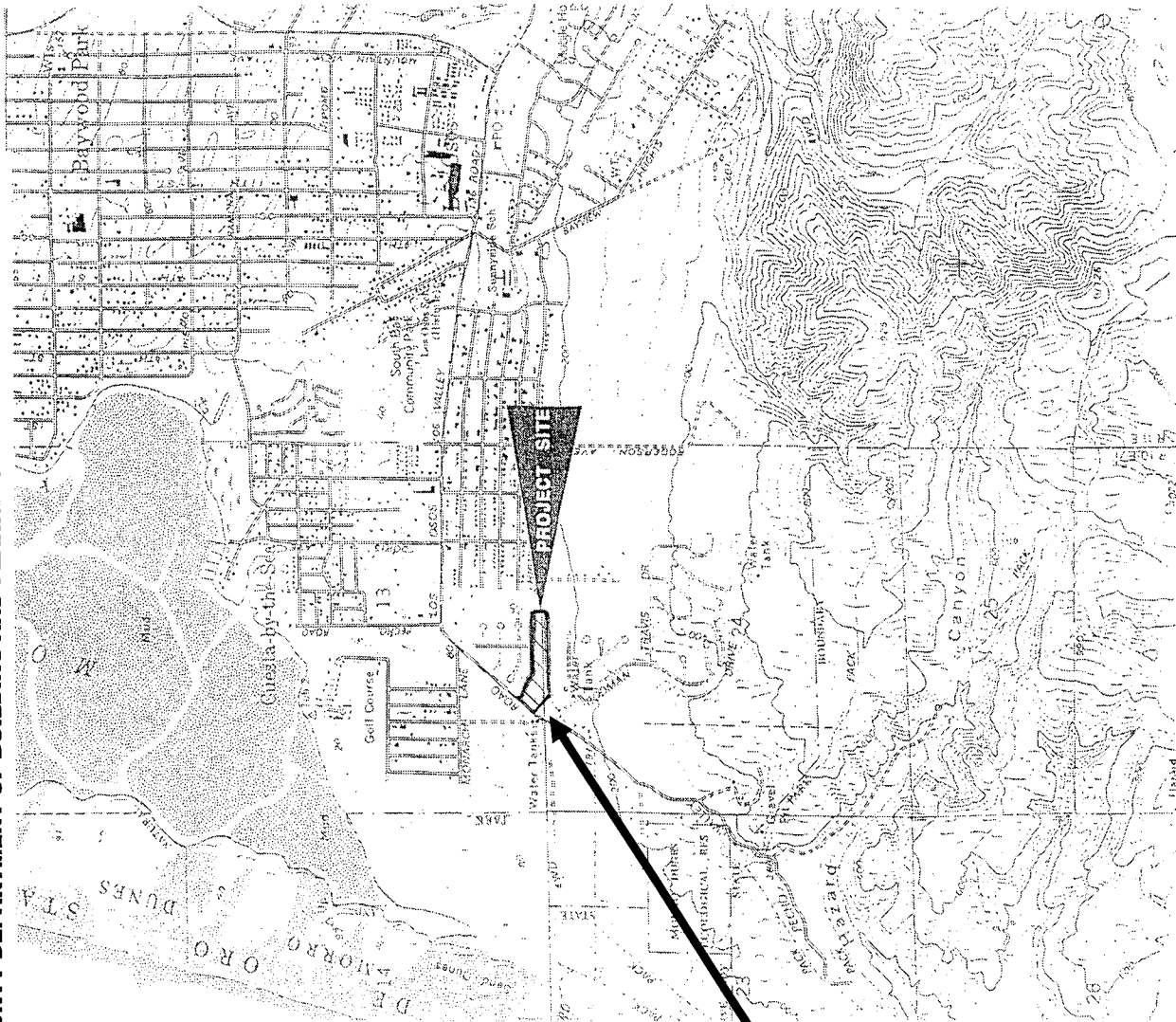
ATTACHMENTS

- Exhibit A: Maps: project location; proposed tentative tract map and Development Plan
- Exhibit B: Correspondence/Testimony
- Correspondence/testimony in connection with the July 26, 2005 Board of Supervisors hearing
 - Letter from LOCAC dated 6/24/2005
 - April 28, 2005 letter from Anastasi Development Company, LLC
- Exhibit C: Vegetation Maps
- Vegetation map from June 1998 *Draft Habitat Conservation Plan/Environmental Assessment* prepared by Anastasi Construction Co., Inc. with assistance from the Morro Group, Inc.
 - Vegetation map from November 6, 2003 *Draft Habitat Conservation Plan* prepared by the Morro Group, Inc.
- Exhibit D: Initial Study

Report prepared by Mike Wulkan and reviewed by Ellen Carroll, Environmental Coordinator

**EXHIBIT A: MAPS:
PROJECT LOCATION,
PROPOSED TENTATIVE TRACT MAP & DEVELOPMENT PLAN**

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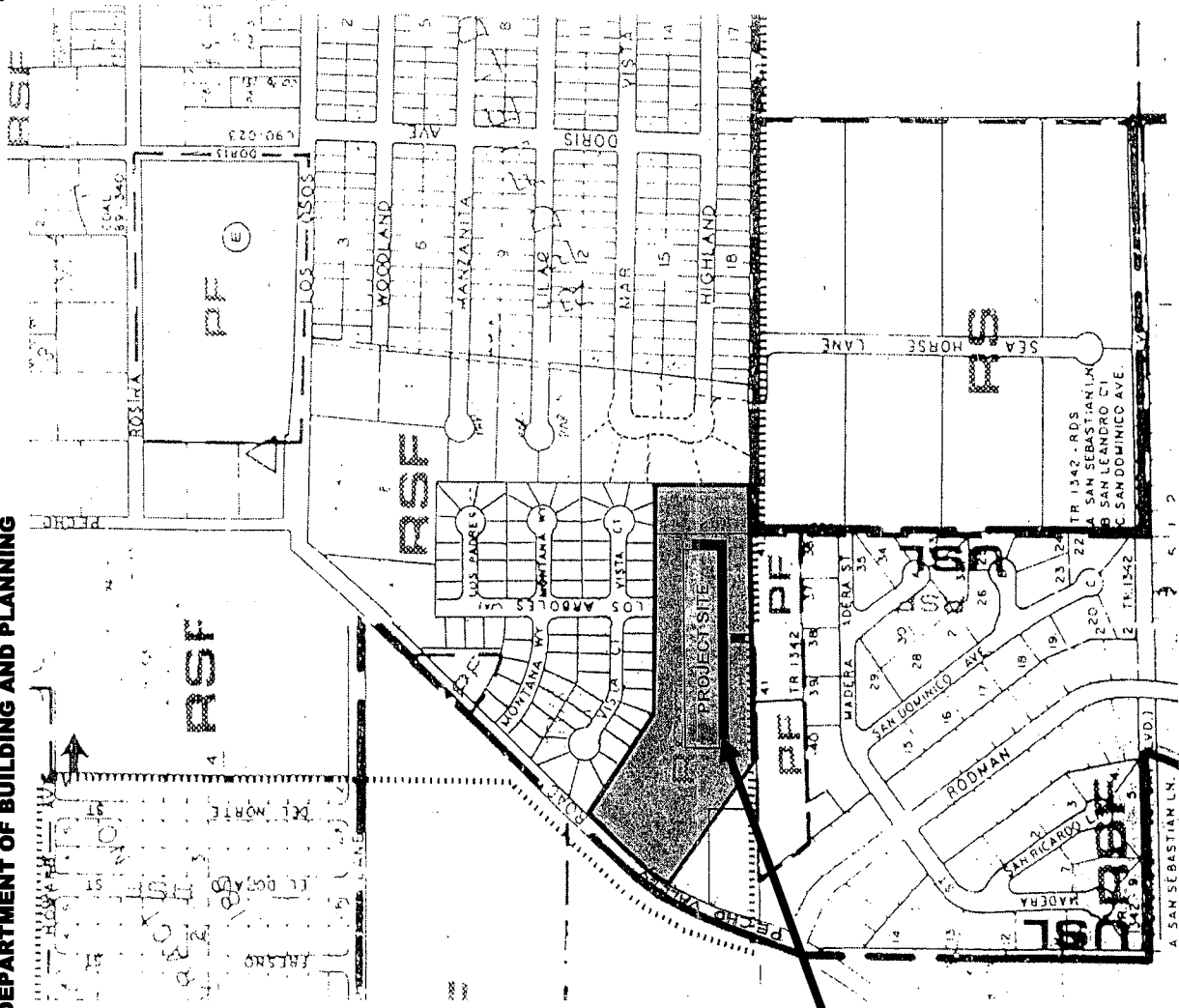
SITE

EXHIBIT
Vicinity Map



PROJECT
Tract Map
Anastasi S970007T

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SITE

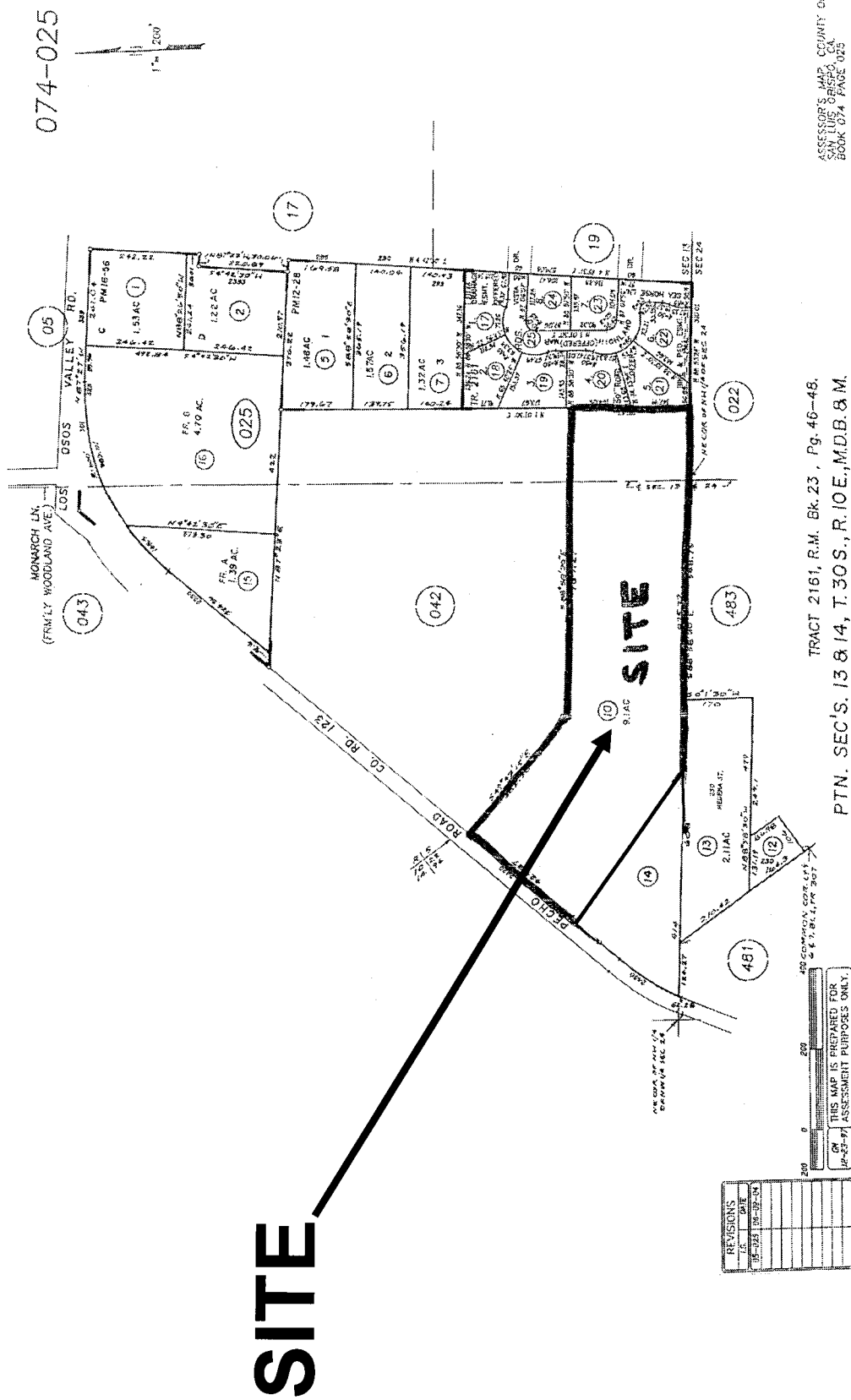
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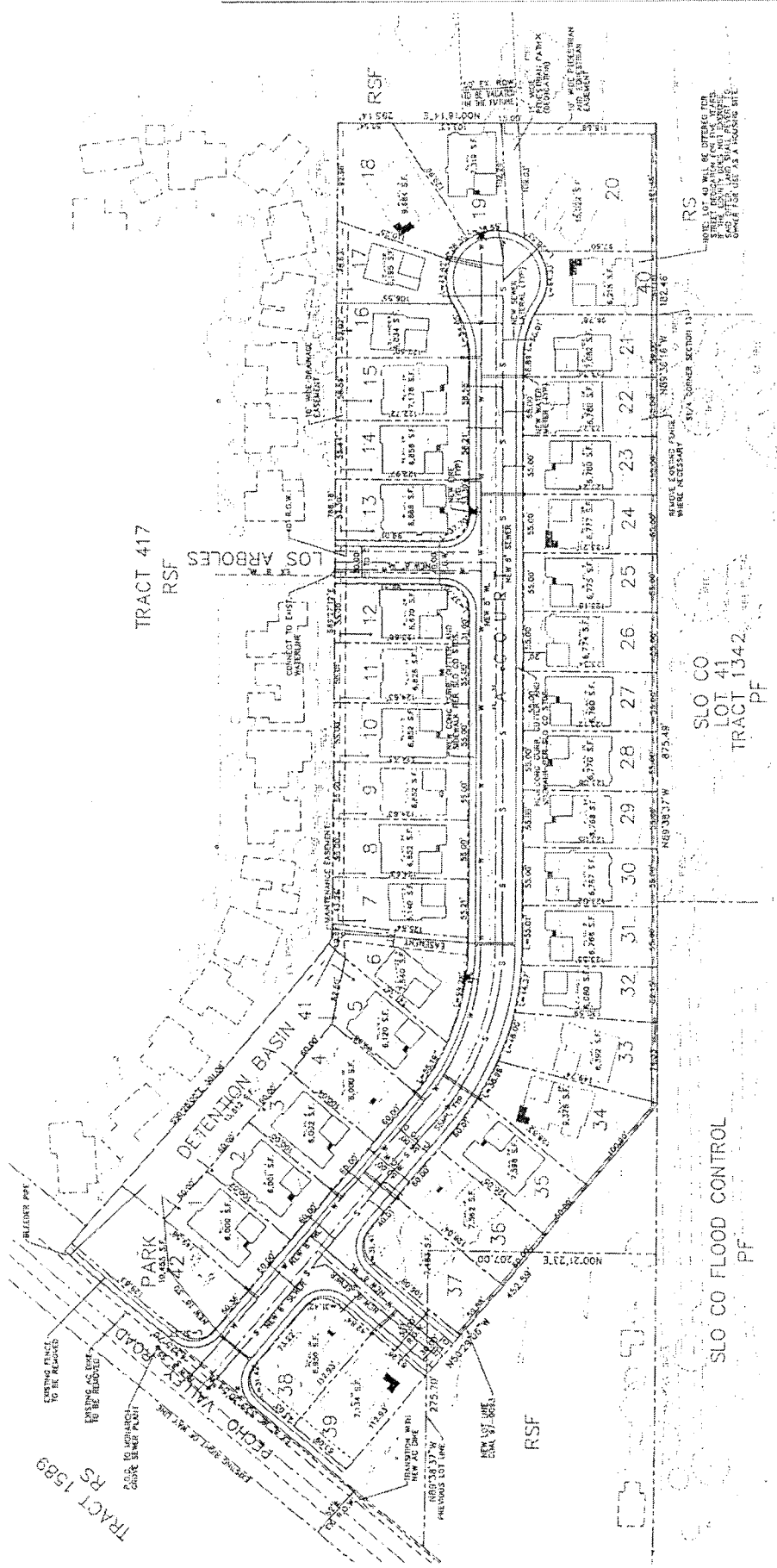
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EXHIBIT

Land Use Category







PROJECT

Tract Map
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EXHIBIT

Site Plan



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EXHIBIT B: CORRESPONDENCE/TESTIMONY

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Powerpoint presentation by Jeff Edwards, 7/26/05

San Luis Obispo County Board of Supervisors



Shirley Bianchi, Chair, District 2
Katcho Achadjian, Vice-Chair, District 4
Harry Ovitt, District 1
Jerry Lenthall, District 3
Jim Patterson, District 5

Agenda Item: C-4, July 26, 2005

Issue: Whether or not to require the preparation of an Environmental Impact Report or, alternatively, determine that a Mitigated Negative Declaration is the appropriate environmental document for the project.

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The Farm — an in-fill residential subdivision

The Farm is approximately 9 acres, surrounded by residential neighborhoods, including: Vista de Oro to the north, Monarch Grove to the west, Cabrillo Estates to the south, and the Highlands to the east.



The Farm — an in-fill residential subdivision

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The proposed density for **The Farm** is no greater than neighboring subdivisions like Vista de Oro, Sunset Terrace, Redfield Woods, and other subdivisions in Los Osos.

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The Farm — an in-fill residential subdivision

The Farm

Environmental Issues for consideration by the San Luis Obispo
County Board of Supervisors:

- 1) Water Use
- 2) Biological Resources
- 3) Transportation/circulation
- 4) Drainage
- 5) Aesthetics
- 6) Land Use

The applicant respectfully submits the project, as proposed, will not result
in adverse environmental effects relative to the above issues or others.

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The Farm — an in-fill residential subdivision

Water Use:

Water is not an issue. The applicant will demonstrate there will be no adverse environmental effect from the project relative to water supply for the following reasons:

- 1) The water purveyor for the project (California Cities Water Company) has furnished a current Water Will-Serve letter, indicating their ability to provide domestic and fire protection service for the proposed project. All special facilities fees associated with water service to The Farm have been paid by Applicant.
- 2) Los Osos/Baywood Park Groundwater Basin, under the Resource Management System, shows the "Recommended Level of Severity" as NONE.
- 3) The domestic water use, from the proposed subdivision, will not exceed the historical water use from agricultural uses of the property.
- 4) The implementation of the project will result in the abandonment of the high producing water well (200+ gpm) that lies in the western portion of the groundwater basin.

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The Farm — an in-fill residential subdivision



March 8, 2005

Revised from September 2, 1999

San Luis Obispo County
Department of Environmental Health
2146 Sierra Way
San Luis Obispo, CA 93401
Attn: Mr. Richard Lichtenfels

Reference: CAR AND WILL SERVE LETTER
The Farm, Tract 2251, Los Osos
APN 074-025-010

Dear Mr. Lichtenfels:

This letter is to inform you that Southern California Water Company, d.b.a. California Cities Water (Cal Cities), will be able to provide domestic water and fire protection service to the proposed Tract 2251, "The Farm" project (Project), from our Los Osos water system, subject to the requirements listed below. The Los Osos System is primarily an open gradient system comprised of elevated storage, wells and boosters that obtains all of its water supply from the Los Osos Valley Groundwater Basin. As a general matter, Cal Cities' ability to extend water service to new customers is done pursuant to General Order 103 of the California Public Utilities Commission (CPUC), and the approved Main Extension Rules and Regulations applicable to Cal Cities.

1. Financial Arrangements

All costs associated with main extensions, water supply, water storage and any additional water apportionances will be paid by the applicant and contributed to SCWC without refund unless otherwise noted in written agreements.

2. Special Facilities

In accordance with the CPUC rules, special facilities may be necessary to provide service to this project. Special facilities are specific system upgrades that are needed to provide for water requirements based on the project impact to the Company's existing system. They may consist of upgrades to existing wells, pumps, reservoirs or mains, new wells, pumps, reservoirs or mains, or upgrades and modifications to operational methods, or some combination. An analysis of the project impact on the existing system and the need and identification of special facilities will be determined when preliminary development drawings are submitted.

CASAL DISTRICT
1401 LOS OLIVOS AVENUE
LOS OSOS, CALIFORNIA 93402
CONTACT: (805) 722-4337 FAX: (805) 528-6442

Can and Will Serve Letter
"The Farm", Tract 2251
March 8, 2005
Page 2 of 2

The agreement to serve this project under the terms of this letter is good for one year from the above date.

Sincerely,

Terry N. Maughmer

Terry N. Maughmer, P.E.
Coastal District Engineer

C. Frank Heldman, California Cities Water
Kathy Lawson, Southern California Water Company
Rick Wyszynski, Antares Development Co., LLC, 700 East Main Street, Suite B, Ventura, CA 93001
Mike Wulken, SLO Co. Planning and Building Department

Water Use:

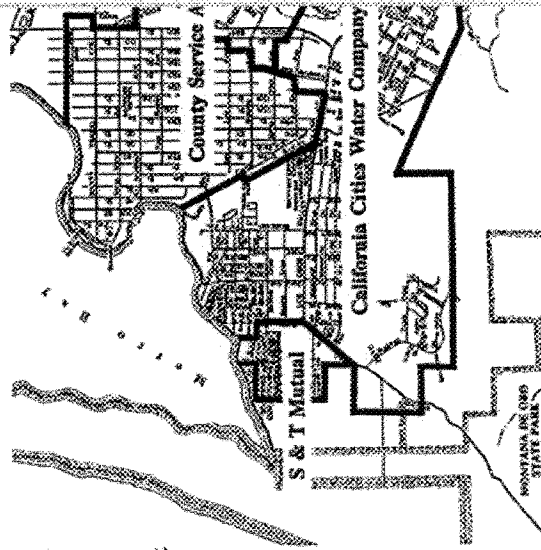
Tract 2251 has a current water "will serve" letter from the Southern California Water Company indicating their ability to provide domestic service and fire protection for the project.

The Farm — an in-fill residential subdivision

Los Osos

The Los Osos area is served by three water purveyors, the Los Osos Community Services District (LOCSD), California Cities Water Company and S & T Mutual Water Company.

Because these agencies pump groundwater from a coastal basin, the potential for seawater intrusion is always a consideration when discussing the issue of system capacity. Some municipal wells are within 2000 feet of the Morro Bay shoreline. There have been indications that seawater intrusion may be taking place



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Annual Resource Summary Report

in portions of the groundwater basin in which production wells are located.

A consultant study jointly sponsored by the three Los Osos water purveyors was completed in 2000. The study resulted in re-calibration of the computer model developed for the 1988 USGS study of the Los Osos Valley groundwater basin. Using the re-calibrated model as an analytical tool, the LOCSD completed a draft Water Master Plan in June, 2001.

The master plan draft includes a revised estimate of the basin's safe yield which suggests that there may be nearly enough water available to serve the Los Osos buildout population. The threat of seawater intrusion could be eliminated or greatly reduced by decreasing production from some wells near the coast and increasing production from wells in other portions of the basin.

A 60 afy buildout shortfall could be made up by using recycled water for irrigation of large turf areas such as school grounds, parks and Sea Pines golf course.

The new estimate of the basin's safe yield changes the level of severity calculation for the Los Osos water system. Based on the information in the LOCSD Water Master Plan, there is no level of severity for Los Osos, whether or not a community wastewater system is constructed. See the discussion on page 11 for additional details.

Both LOCSD and Cal Cities Water Company have discontinued their participation in the current phase of the Nacimiento Project.

Recommended Level of Severity: None

- Level of Severity I:** *When projected water demand over the next nine years equals or exceeds the estimated dependable supply.*
- Level of Severity II:** *When projected water demand over the next seven years equals or exceeds the estimated dependable supply.*
- Level of Severity III:** *When the existing water demand equals or exceeds the dependable supply.*

Source: Land Use Element - Circulation Element, San Luis Obispo County General Plan, 2004 Resource Management System, Annual Resource Summary Report

The Farm — an in-fill residential subdivision

Current RMS Water Supply Status for Los Osos/ Baywood Park Groundwater Basin.

Recommended Level of Severity: None

Recommended Actions: 1. Water purveyors should pursue water recycling programs to increase the likelihood that existing groundwater supply can serve the expected buildout population.
2. Water purveyors should consider implementation of conservation measures to provide a greater level of confidence in the validity of supply/demand estimates.
3. Water purveyors should periodically update estimates of agricultural and private domestic demand, as well as urban demand, to confirm water use estimates.
4. Water purveyors should monitor coastal wells for seawater intrusion and implement changes in pumping patterns to lessen the possibility that such intrusion could occur.

The most significant aspect related to our water supply relates to how the water purveyors manage the resource, e.g. well location, pumping schedules, and conservation measures.

Source: Land Use Element - Circulation Element, San Luis Obispo County General Plan,
2004 Resource Management System, Annual Resource Summary Report

The Farm — an in-fill residential subdivision

**Community Water Supply and Distribution, 2004
Recommended Levels of Severity (RLOS)**

Community	RLOS		Reason
	SUPPLY	SYSTEM	
Avila Beach	None	None	
Cambria	III	III	Seasonal supply shortage
Cayucos	II	II	LOS II for supply certified by Board of Supervisors LOS II for system based on CSA#10A allocation
Garden Farms	None	II	Inadequate pumping capacity during drought
Heritage Ranch	None	None	
Los Ranchos/Edna	II	None	Possible basin overdraft (SLO Creek)
Nipomo	II	None	LOS II certified by Board of Supervisors
Oceanside	None	None	
S. Miguel	None	II	Demand is approaching pumping capacity
San Simeon	III	III	CSD moratorium; supply uncertainty during drought
Santa Margarita	III	III	Supply uncertainty; backup deficiency
Shandon	None	None	
Los Osos	None	None	
Templeton	None	II	Supply fully allocated

Source: Land Use Element - Circulation Element, San Luis Obispo County General Plan,
2004 Resource Management System, Annual Resource Summary Report

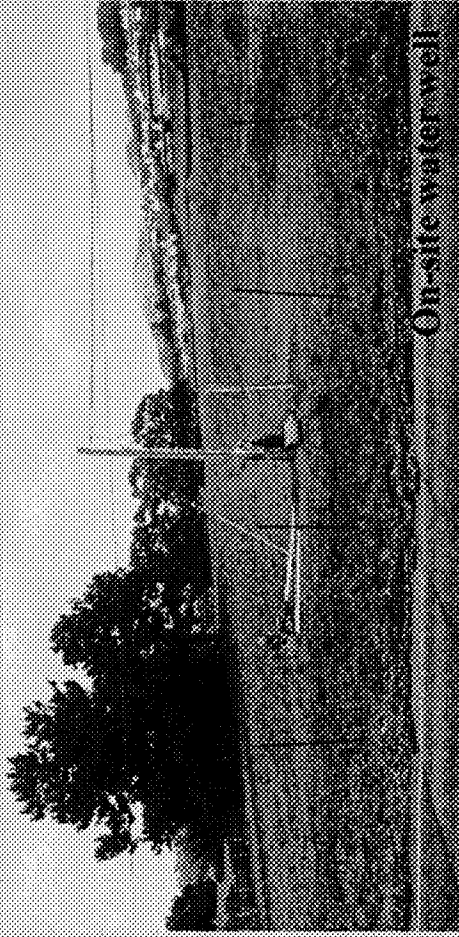
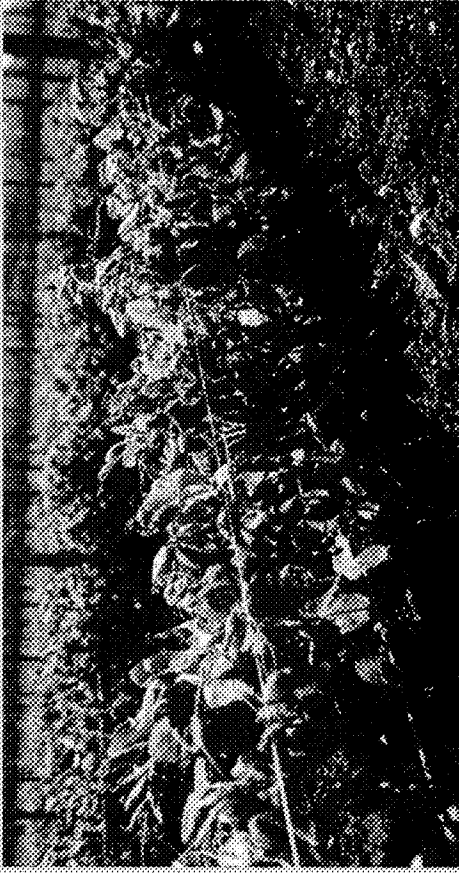
The Farm — an in-fill residential subdivision

Empirical analysis of water demand vs. historical water usage

Historical agricultural water use = 3 acre feet per year, per acre, or 27 acre feet per year.

Residential water demand of 40 homes x .5 acre feet per home, per year = 20 acre feet per year. 20 acre feet per year required for 40 homes is less than 27 acre feet per year for agriculture.

At this usage rate, the applicant could construct 54 homes without exceeding the historical water consumption.



NOTE:

Applicant agrees, as a condition of approval, to abandon use of the existing high yield well on site.

The Farm — an in-fill residential subdivision

Biological Resources:

The Farm has been cultivated for over 30 years.

The Farm

The Farm — an in-fill residential subdivision



Since before the early 1970s, **The Farm** has been planted with sugar peas, squash and peppers.

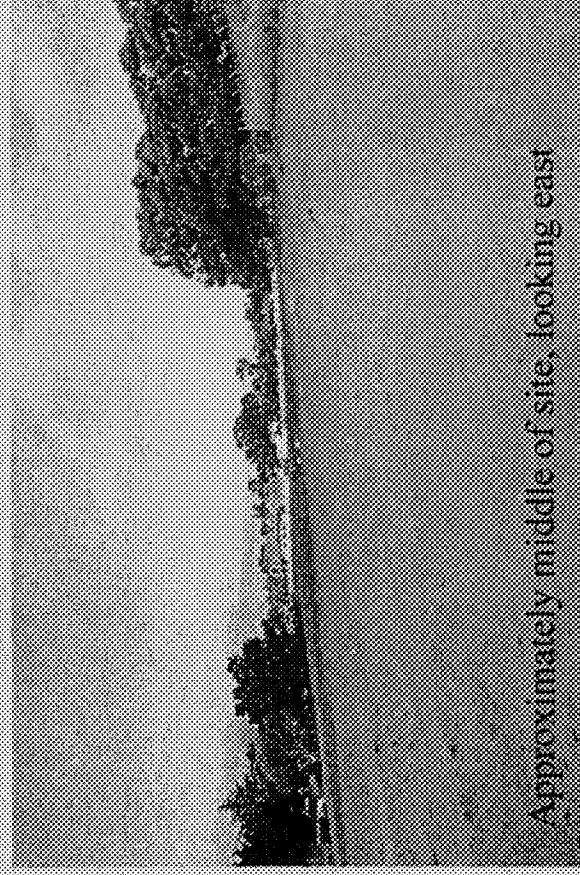
Additionally, it has been used for non-irrigated equine pasture, to the exclusion of any significant native vegetation.

The Farm — an in-fill residential subdivision

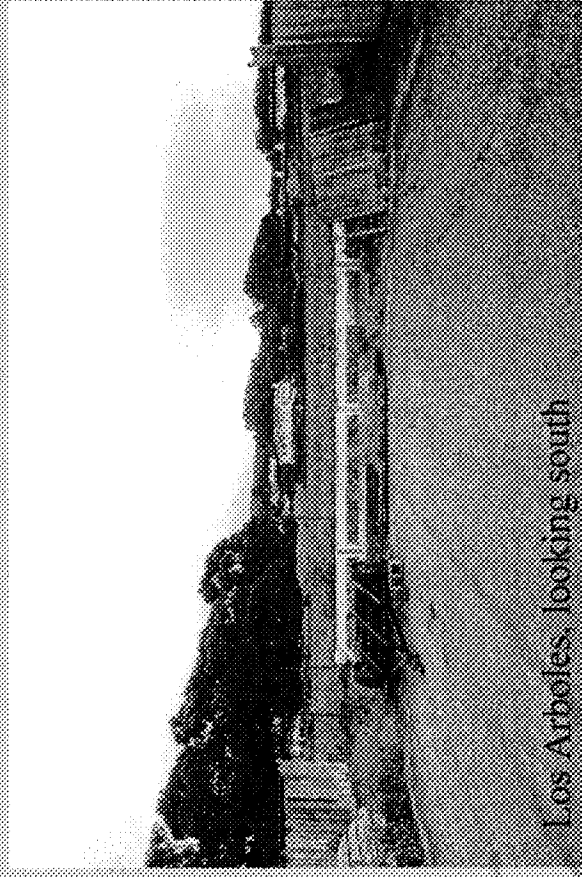
Present day, ground level photographs reflect the absence of significant vegetation.



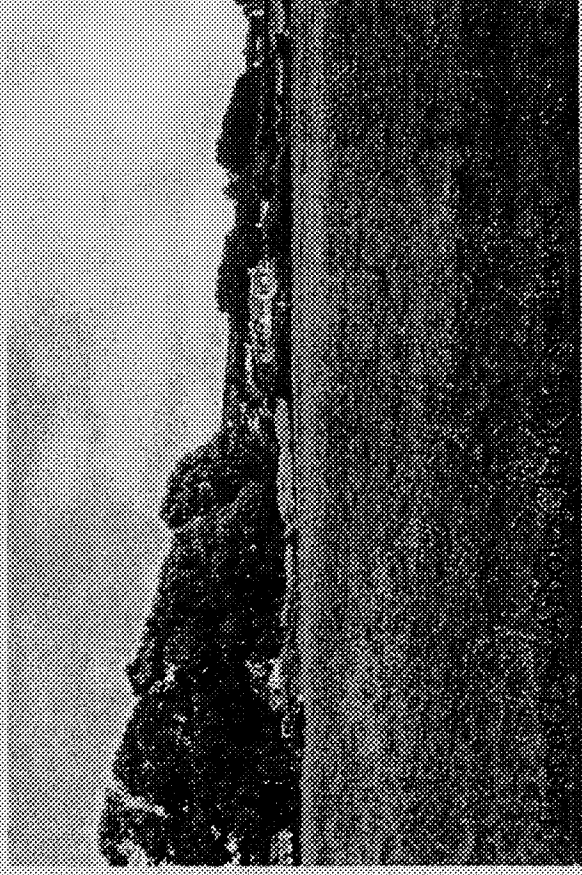
Pecho Valley Road, looking east



Approximately middle of site, looking east



Los Arboles, looking south



Photos taken July 2005

The Farm — an in-fill residential subdivision

Biological Resources:

Additional reasons supporting the Applicant's position that no adverse environmental effect will result to biological resources from the proposed project.

In the context of the approved Estero Area Plan Update, approved by the Board of Supervisors, the subject property:

1. Does not lie within the Dune Sands Environmentally Sensitive Habitat Area (ESHA).
2. Does not lie within the Los Osos/Baywood Park Greenbelt.

Finally, staff asserts that an HCP has not been approved the US Fish & Wildlife Service, however, it has been determined an HCP will not be required of The Farm.

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The Farm — an in-fill residential subdivision



ASSOCIATED TRANSPORTATION ENGINEERS

100 N. Hope Avenue, Suite 4, Santa Barbara, CA 93110 • (805) 687-4418 • FAX (805) 682-8503

Richard L. Pool, P.E.
Scott A. Echell, AICP

July 6, 2005

05070101.WP

Rick Nyznyk
Anastasi Development Company, LLC
700 E. Main Street
Ventura, CA 93001

TRAFFIC ANALYSIS FOR THE FARM RESIDENTIAL PROJECT (TT 2251), LOS OSOS, COUNTY OF SAN LUIS OBISPO

Associated Transportation Engineers (ATE) has prepared the following traffic analysis for The Farm Residential Project (TT 2251), proposed in the Los Osos area of San Luis Obispo County. The project is proposing a residential subdivision consisting of 41 lots. 40 lots would be for single-family dwelling units and one lot would be for a neighborhood park.

The project site is located on Pecho Valley Road, south of Montana Way. Access to the project would be provided via a new roadway connection to Pecho Valley Road and an emergency access connection to Los Arboles Way. The project site plan is attached for reference. The traffic analysis reviews the project's potential traffic impacts to the neighboring streets of Pecho Valley Road, Los Arboles Way, and Montana Way and evaluates the project's site access and circulation plan. It is understood that the traffic analysis will be used by the County for environmental review purposes.

Transportation/Circulation:

Potential traffic impacts on Los Arboles Way and Montaña Way were determined to be insignificant, and thus, there will be no resulting adverse environmental effect.

Table 1
Project Trip Generation

Land Use	Size	Average Daily Trips		A.M. PHT		P.M. PHT	
		Rate	Trips	Rate	Trips	Rate	Trips
Single-Family	40 units	9.57	383	0.75	30	1.01	40

PHT = Peak Hour Trips

Table 1 shows that the project would generate 383 average daily trips, with 30 trips occurring during the A.M. peak hour and 40 trips occurring during the P.M. peak hour.

¹ Los Osos Circulation Study Annual Update, County of San Luis Obispo Department of Public Works Transportation Division & Omni-Means, 2003.

² Trip Generation, Institute of Transportation Engineers, 7th Edition, 2003.

The Farm — an in-fill residential subdivision

Transportation/Circulation:

Potential Impacts

Significance Thresholds

The County of San Luis Obispo has adopted LOS D as the minimum standard for roadway operations in Los Osos, with mitigations required for operations in the LOS D-F ranges.

Roadway Impacts

Pecho Valley Road: The project would add 364 ADT, 29 A.M. peak hour trips, and 38 P.M. peak hour trips to Pecho Valley Road north of site; and 19 ADT, 1 A.M. peak hour trip and 2 P.M. peak hour trips south of the site. Pecho Valley Road would continue to operate at LOS B with the Existing + Project volumes and the project would not generate impacts according to the County's thresholds.

Los Arboles Way: The connection through the adjacent neighborhood at Los Arboles Way would be restricted to emergency access vehicles only. Therefore, the project would not add any traffic to this road and would not generate impacts according to County thresholds.

Montana Way: As mentioned above, the connection through the adjacent neighborhood at Los Arboles Way would be restricted to emergency access vehicles only. Therefore, the project would not add any traffic to Montana Way and would not generate impacts according to County thresholds.

The Farm — an in-fill residential subdivision

The project would generate 8 southbound left-turns from Pecho Valley Road into the site during the A.M. peak hour period and 25 southbound left-turns into the site during the P.M. peak hour period. Existing + Project A.M. and P.M. peak hour level of service calculations were completed using the Highway Capacity Manual unsignalized intersection methodology to assess the intersection's operation (worksheets attached). The results shows that the intersection would operate at LOS A during the A.M. and P.M. peak hour periods without a left-turn lane on Pecho Valley Road. The 95th percentile queue for the southbound movement, assuming no left-turn lane, would be less than one vehicle at the intersection during the peak hour periods. Adequate inter-visibility is provided for vehicle movements at the intersection. Based on the analyses, a separate left-turn lane would not be warranted or recommended for the southbound left turns into the project site.

An emergency access to the site would be provided via a drive aisle located between the southern terminus of Los Arboles Way and the project access drive aisle. The emergency access road is 10 feet in width and can accommodate an emergency vehicle in a one-way direction.

This concludes our traffic analysis for The Farm Residential Project.

Associated Transportation Engineers


Scott A. Schell, AICP
Principal Transportation Planner

SAS/DLD/AO

Attachments: Project Site Plan
LOS Calculation Worksheets

cc with attachments: Jeff Edwards, JHE Company

3526

Transportation/Circulation:

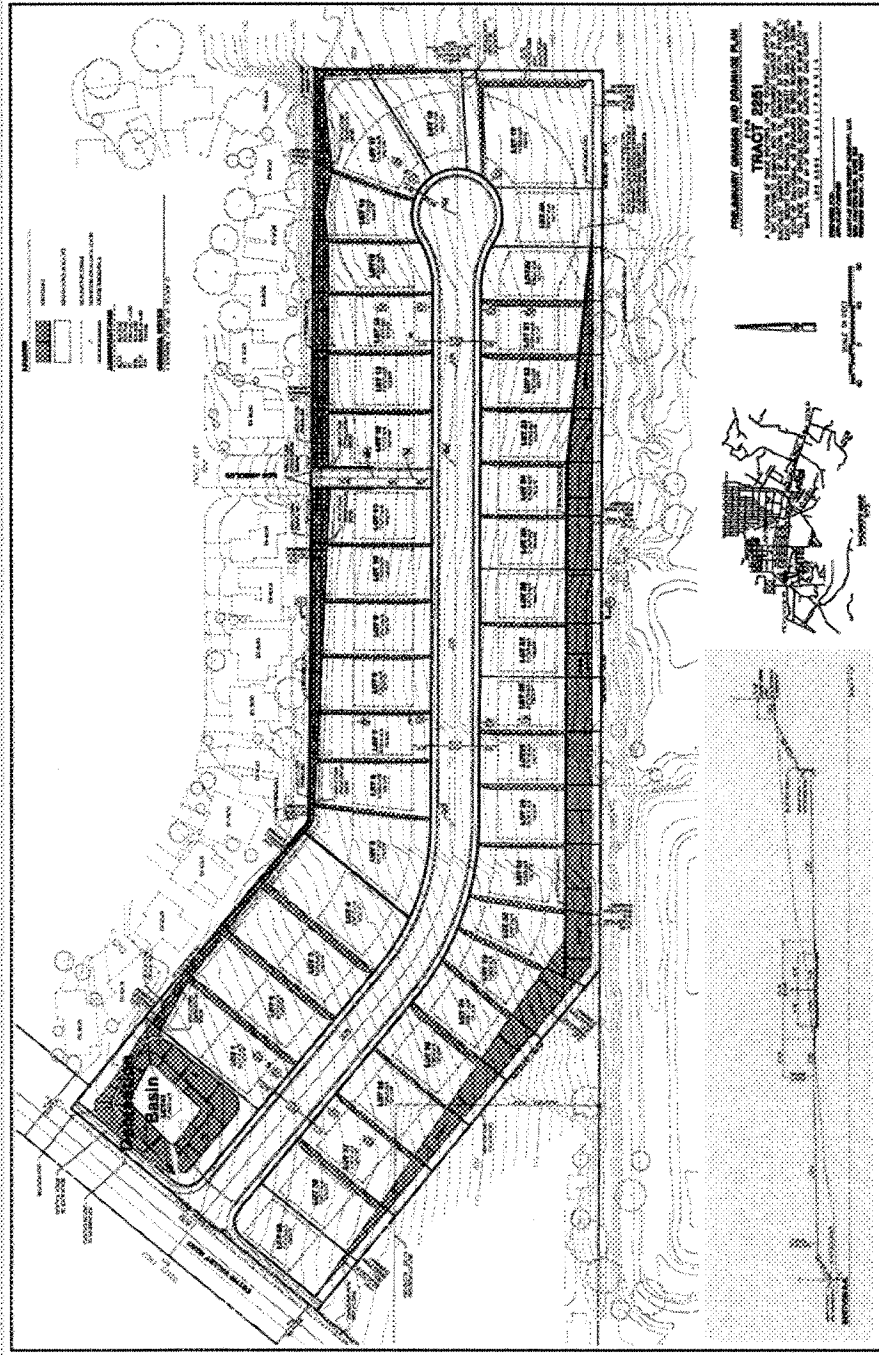
Additionally, the report indicates that "a separate left-turn lane would not be warranted or recommended for the southbound left turns into the project site."

Finally, the project as proposed provides the opportunity for emergency access at Los Arboles Way and a possible future connection to Cabrillo Estates via an offer of dedication over Lot 40.

The Farm — an in-fill residential subdivision

Drainage:

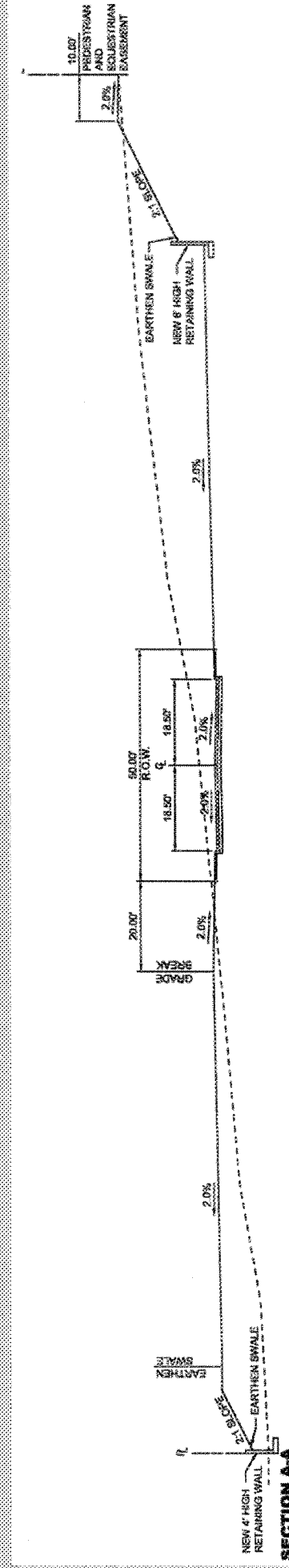
The drainage provisions for the project have been refined to provide a primary storm water detention basin as shown on the map to the left.



The Farm — an in-fill residential subdivision

Aesthetics:

Below is a site cross-section which depicts the relationship and neighbor interface on both the north and south boundaries. Site grading has been designed to minimize retaining wall height and the vertical elevation change between project home sites and the adjacent neighbors. For example, the finished pad heights for lots on the north side of the project, adjacent to Vista de Oro Estates, will vary between 6' and 16' higher than Vista de Oro's.



The Farm — an in-fill residential subdivision

Land Use:

Staff provides examples of potentially significant land use issues, such as:

1. Interim Service Capacity Allocation (ISCA) -- an area plan standard regarding the reservation of water resources for certain uses.

Response—Given the historic water usage on the property, the subject project does not require any allocation of water.

2. Potential incompatibility with the surrounding uses from large 2-story homes on certain proposed lots.

Response—As discussed in the prior slide, the elevation difference varies between 6' to 16' and not the 15' to 20' suggested by Staff. Final map conditions can alleviate this concern as well.

3. Potential inconsistency between tentative map and current Estero Area Plan regarding future extension of Highland Drive.

Response—The Estero Area Plan Update deletes this future extension.

The Farm — an in-fill residential subdivision

Presentation Summary:

Anastasi Development Company respectfully requests the Board of Supervisors to direct Staff to prepare a Mitigated Negative Declaration for The Farm, an in-fill residential subdivision.

Reasons why a Negative Declaration is appropriate:

1. Water Use: adequate supplies, current will-serve letter, historical use, well to be abandoned.
2. Biological Resources: no on-site vegetation, not in ESHA, not in greenbelt, and no HCP required.
3. Transportation/Circulation: no impacts to adjacent streets and project provides secondary access.
4. Drainage: a primary detention basin has been sited to handle storm water runoff.
5. Aesthetics: residences developed adjacent to Vista de Oro Estates will not tower over neighboring homes by 15' to 20'.
6. Land Use: ISCA is not applicable to the subject proposal. Also the Estero Area Plan Update has eliminated the proposed extension of Highland Drive.

The Farm — an in-fill residential subdivision

ANASTASI

DEVELOPMENT COMPANY, LLC

July 25, 2005

Chairperson Shirley Bianchi
County Board of Supervisors
County Government Center
San Luis Obispo, CA 93408

Re: **Item C-4**, July 26 Board meeting, environmental determination for the Farm

Dear Ms. Bianchi:

Please accept this letter as Anastasi Development Company, LLC's request for a continuance of the above referenced public hearing to a subsequent Board meeting 45-75 days from now. Since my meetings with you last week, we have received additional information regarding one of the central issues raised by staff that we believe, over the requested time, will lead to a resolution of that issue, and possibly even staff's position regarding the EIR itself.

We do not wish to simply remove the issue from calendar, however. In case there are those present who may not be able to make the date to which the hearing is continued, we want everyone to have the opportunity to address the Board on this matter and feel it would be prudent to at least open the public hearing before continuing it, if it please the Board.

Please contact me directly at richardnyznyk@anastasi.com , or at my office, 595-1396, or on my cell phone, 331-0483, if I can answer any questions about this request, the upcoming hearing or the subdivision which is the subject of our presentation.

Very truly yours,

Richard A. Nyznyk

C-6
37

To: Dept. of Planning and Building
Attn: Mike Wulkan

rec'd
7/25/05
Plng + Bldg

Re: Anastasi Development. APN# 074-025-010 County File # S970007T/D990109D

From: Concerned Citizens that directly border the South and East sides of project

Dear Supervisors:

The 42 unit proposal for this area on a 9 acre parcel is completely out of scale. It is much to dense. Larger 1+ acre parcels and ½ acre parcels border the project directly above and to the East. Half acre to 1 acre parcels fit this project. When curb, gutter and streets are also included in the formula as well as detention basins and a park, the gross area for homes is extremely condensed to 6000 sq. foot lots. This is a very rural area where horses and walking trails border in either directions. As city planners, these are the important decisions which preserve our natural environments and make our area beautiful.

We would also like to touch on the fact that this 9 acre parcel served the home to many natural plant and animal habitats including our native manzanita and Morro shoulderband snails. These people have been for the last 2 – 3 years cutting and grading everything on the property. They have been tilling the earth with heavy equipment the whole year up to 10" below grade every 10 weeks. Everything has been destroyed, including the Morro shoulderband snails as well as manzanitas and other delicate plant and animal life, for the purpose of maximizing their profit on the number of track units sold. They want to eliminate the snail so when the feds. arrive, they will find none. This is highly illegal. The County as well as the concerned neighbors should not tolerate these actions.

Please read this memo carefully and try to understand what is taking place at this sensitive site.

Yours Truly,

Concerned property owners next to site

We like to stay anonymous for several important reasons

C-38

July 23, 2005

To: The San Luis Obispo County Board of Supervisors
Regarding: 7/26/05 Agenda item C-4, Hearing to consider an environmental determination

We, the undersigned residents, wish to convey our support for your staff's recommendation to require an Environmental Impact Report (EIR) for the Anastasi project located east of Pecho Road, approximately 350 feet south of Montana way in the community of Los Osos. We are in favor of a Single Family residential development, however, it is our fervent belief that without an EIR the issues that will impact our neighborhood will not be adequately analyzed. Issues that we are concerned about include traffic impacts, privacy (building heights, rear yard setbacks, lighting, location of on-site trails), adequate drainage, water supply and waste disposal, as well as application processing pursuant to Federal, State and county regulations.

The applicant may argue that an EIR is not needed because an endangered species and its habitat are gone. He knows this because he has destroyed all of the vegetation even though the site is under investigation for a potential violation of the Endangered species act. Should this blatant disregard for federal environmental law be rewarded with an exemption from California environmental law? Please support the intent of the California Environmental Quality Act (CEQA) which is to disclose to decision-makers and the public all significant environmental impacts of a proposed project.

Protect the integrity of county government by properly processing of this application and protect your constituents who will be affected by this project.

Name

Address

1 Phyllis A. Schoonbeck	239 Vista Ct. Los Osos
2 Alan H. Schoonbeck	239 VISTA CT. Los Osos
3 Mary D. Dade	245 VISTA CT. LOS OSOS
4 Eileen M. Debeck	245 Vista Court, Los Osos
5 Jerry Farris	241 VISTA COURT, Los Osos
6 Sarah Kramer	243 Vista CT, Los Osos
7 Barbara E. Brennan	232 VISTA CT, LOS OSOS
8 R. W. West	238 Vista Ct, Los Osos.
9 Judy B. Stutts	242 Vista Ct, Los Osos
10 [Signature]	247 Vista Ct. Los Osos

6-39

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Name

Address

- | | | |
|----|---------------------------|------------------------------------|
| 11 | John John Hall | 247 Vista Ct. Los Osos, CA 93402 |
| 12 | Ruth L. Pimentel | 244 Vista Ct. Los Osos, CA 93402 |
| 13 | Richard John Pimentel | 244 Vista Ct Los Osos Ca 93402 |
| 14 | John Hall | 246 Vista Court Los Osos, CA 93402 |
| 15 | John Hall | 246 Vista Ct. Los Osos, Ca 93402 |
| 16 | John Hall | 255 Vista Ct. Los Osos, CA 93402 |
| 17 | John Hall | 254 Vista Ct Los Osos CA 93402 |
| 18 | Rose Marie Marian | 263 Vista Ct Los Osos CA 93402 |
| 19 | Lora Hall | 271 Vista Ct. Los Osos CA 93402 |
| 20 | JOHN MELLOR | 271 VISTA CT LOS OSOS, CA 93402 |

C-6
40

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Name

Address

-
- | | | |
|----|---------------------|-------------------------------------|
| 21 | Ruby L Flaschenreim | 272 Vista Court Los Osos CA 93402 |
| 22 | Ruby L Flaschenreim | 272 VISTA CT Los Osos CA. |
| 23 | J. A. | 270 Vista Ct. Los Osos CA 93402 |
| 24 | M. J. | 262 Vista Ct Los Osos CA 93402 |
| 25 | J. A. | 255 VISTA COURT, LOS OSOS, CA 93402 |
| 26 | Judith Brennan | 270 Madera Way Los Osos, CA 93402 |
| 27 | David Brennan | 270 MADERA way LOS OSOS CA 93402 |
| 28 | Ali Shaban | 258 Madera Way Los Osos CA 93402 |
| 29 | Karen O'Grady | 235 Montana Way Los Osos CA 93402 |
| 30 | Eleanor R. Hogue | 241 Montana Way Los Osos, CA 93402 |

C6
40A

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Name

Address

- | | | |
|----|-------------------|---------------------------------|
| 31 | Payling DeNath | 245 Montana Way |
| 32 | Kelly | 245 Montana Way |
| 33 | Dawn Matthee | 249 Montana Way |
| 34 | Mr. Olimski | 234 Montana Way |
| 35 | Tom Teste | 253 Montana |
| 36 | William B. Rodari | 271 MONTANA WY Los Osos |
| 37 | Jim G. Mc | 268 MONTANA WY LOS OSOS, CA |
| 38 | Paul Soren | 268 MONTANA WY Los Osos |
| 39 | Enriquez-Suarez | 263 Vista Ct Los Osos Ca 93402 |
| 40 | Araceli Alvarez | 248 Vista Ct. Los Osos Ca 93402 |

Cd
41

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Name

Address

41	RAAB	275 VISTA CT, Los Osos
42	Shirley Cullen	275 Vista Ct., Los Osos
43	Francella Furlong	230 Vista Ct. L.O.
44	RAAB	259 Vista Ct. L.O.
45	Marilyn D. Horne	258 Vista Court L.O.
46	Jay Horne	258 Vista Ct L.O.
47	Ernestine Beery	248 Montana Co
48	Robert Beery	248 MONTANA WAY L.O.
49	Carol Mitchell	264 Montana C.O
50	John Sauer	244 MONTANA WAY LO

C-6
42

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Name

Address

- 51 Ray Blaney 234 Vista Court Los Osos, Ca. 93402
- 52 Mye H. 231 Vista Ct Los Osos CA 93402
- 53 Dawn Sanders 237 Vista Ct LOS OSOS, CA 93402
- 54 Colt With 238 Vista Ct LOS OSOS
- 55 Mike Sherman 266 Vista Ct LOS OSOS
- 56 Michael Clark 256 Montana Way Los Osos CA
- 57 Maris Chavez 252 Montana Way, Los Osos, CA
- 58 MICHAEL E. HANSEN 245 MONTANA WAY, Los Osos, CA
- 59 Katherine Walker 249 Vista Ct, Los Osos CA 93402
- 60 _____

Cb
43

To: Shirley Bianchi; 2nd District Supervisor; All members of the San Luis Obispo County Board of Supervisors
Cc: Mike Wulken; Project Manager; San Luis Obispo County Department of Planning and Building
Subject: Request by Anastasi Construction Co. for a vesting Tentative Tract Map (Tract 2251)/ Coastal Development Permit. County File
No:S970007T/D990109D

To Whom It May Concern and Honorable Members of the Board of Supervisors:

We have lived at the home we own at 245 Vista Court in Los Osos for 29 years. Our back yard and property line abuts an open field that is currently owned by Anastasi Construction Company. They have begun the process to develop this 9.1 acre parcel into 42 parcels including 40 residential parcels, a park and detention basins, for the purpose of sale and/or development.

They are requesting that the Board of Supervisors not approve a recommendation by the County Environmental Coordinator to require that an Environmental Impact Report (EIR) be prepared for this project. This small subdivision of Vista De Oro was built in the early 1970's and contains only four streets. It has been a self-contained neighborhood with minimal traffic, noise, drainage, and other related problems. It has been a wonderful neighborhood to live in and raise our family. Now that we are retired, we hope to live here the rest of our years. We are very concerned about the impacts of this new development proposed behind us for many reasons including traffic, setback distances, drainage and flooding, privacy in our backyard, and numerous other issues which would be considered in an Environmental Impact Report.

Let me state that we are not against a development on this parcel of land but are concerned by the potential impacts of this development on our home, lifestyle, and property values. There many other community wide issues such as future water resources, county service impacts and the sewer system that remain unsettled regarding the future of Los Osos. To allow this development to proceed without an Environmental Impact Report being prepared would be a disservice to the affected neighborhood of Vista De Oro and the community of Los Osos. Many of the issues which would be studied under such a report will require mitigation by the developer to transition into the existing neighborhood.

I urge the members of the Board of Supervisors to support the recommendation of the Environmental Coordinator to require that an Environmental Impact Report be prepared for this proposed project. Thank you for your consideration of this request.

We can be reached for further comment or questions at 805-528-1538

Sincerely,

Gary and Eileen Orback

C-6
44

received 7/14/06
Planning/ Building Dept.

1 JAMES ARTIANO, #097394
2 ERIC NAKASU, #128631
3 ARTIANO, GUZMAN & TOOMEY, LLP
4 3828 Carson Street, Suite 102
5 Torrance, CA 90503-6706
6 Voice: (310) 543-1240
7 Fax: (310) 543-9850
8
9 Attorneys for Anastasi Development Co., LLC

8 COUNTY OF SAN LUIS OBISPO
9 SUPERVISORY DISTRICT NO. 2

10
11 IN THE MATTER OF ESTERO, LOS) APN: 074-025-010
12 OSOS, AKA THE FARM)
13)
14)
15)
16)

17
18 Anastasi Development Co., LLC ("Anastasi") hereby submits the following
19 memorandum of points and authorities in support of its contention that the Initial Study
20 of March 25, 2005 should be revised to set forth a Negative Declaration or Mitigated
21 Negative Declaration as it relates to Estero, Los Osos, aka "The Farm."

22 1. AESTHETICS:

- 23 (a) No objection;
24 (b) No objection;
25 (c) No objection;
26 (d) No objection;
27 (e) No objection;

1 (f) Objection.

2 This Initial Study states that "Visual Compatibility" poses a potentially
3 significant impact on the environment. All of the other categories of Aesthetics were
4 found to cause no significant impact yet the study concludes that an Environment
5 Impact Report ("EIR") should be performed to address mitigation measures as
6 applicable. However, the Study finds under "Mitigation/Conclusion" that "no
7 mitigation measures are necessary."

8 The Study's findings and recommendations are clearly inconsistent and
9 there is a lack of substantial evidence presented in the report to support a finding that
10 the proposed development will have a potentially significant negative impact on the
11 environment. In fact, the only argument of a potentially significant negative impact is
12 based upon speculation and conjecture of possible public opposition in that "some area
13 residents have expressed concerns that single or two story homes on the north side of the
14 proposed road through the subdivision *could* negatively effect visual quality of existing
15 homes below due to the grade differential."

16 Under California Environmental Quality Act ("CEQA"), once a project is
17 proposed and submitted, the lead agency performs an Initial Study to identify the
18 environmental impacts of the project and determine whether the identified impacts are
19 "significant." Based on the lead agency's findings of "significance," it prepares one of
20 three environmental review documents: (a) Negative Declaration - no "significant"
21 impact; (b) Mitigated Negative Declaration - finds "significant" impact but revises the
22 project to mitigate the impacts; and (c) Environmental Impact Report (EIR) if it finds
23 "significant" unmitigated impact. (Title 14 California Code of Regulations §§15060 et
24 seq.)

25 An EIR is required only when substantial evidence supports a fair
26 argument that a proposed project may have a significant effect on the environment.
27 Substantial evidence is defined as "enough relevant information and reasonable
28

C-6
46

1 inferences from this information that a fair argument can be made to support the
2 conclusion, even though other conclusions might also be reached. Whether a fair
3 argument can be made is to be determined by examining the whole record before the
4 lead agency. *Argument, speculation, unsubstantiated opinion, or narrative, or evidence*
5 *that is clearly inaccurate or erroneous, or evidence that is not credible, shall not*
6 *constitute substantial evidence. Substantial evidence shall include all facts, reasonable*
7 *assumptions predicated upon facts, and expert opinion supported by facts." (Emphasis*
8 *Added) 14 Cal. Code Regs. §15064(f)(5).*

9 "Significant effect on the environment" means a substantial, or potentially
10 substantial, adverse change in the environment. 14 Cal. Code Regs. §15382; Laurel
11 Heights Improvement Assn. v. Regents of University of California (1993) 6 Cal.4th 1112, 1113,
12 26 Cal.Rptr.2d 231, 864 P.2d 502. For the Anastasi Project, the Initial Study claims that
13 there is one issue of a possible "aesthetic" impact, yet the lead agency has not
14 demonstrated that the project may significantly impact the environment.

15 In the Initial Study the lead agency does not cite any specific evidence or
16 expert opinion that the proposed project will adversely change or impact the
17 environment. In fact, the Study specifically finds the opposite when it states "the project
18 will not affect public views to and along the coast," and "no mitigation measures are
19 necessary." Yet, the lead agency is stating an EIR must be prepared. The only reason
20 cited by the Study for the EIR is that "some area residents have expressed concern." The
21 recommendation for an EIR is inconsistent with the findings of the Initial Study. "Under
22 CEQA, the question is whether a project will affect the environment of persons in
23 general, not whether a project will affect particular persons." (Emphasis Added) Mir
24 Mar Mobile Community v. City of Oceanside (2004) 119 Cal.App.4th 477, 14 Cal. Rptr.3d 308;
25 Association for Protection etc. Values v. City of Ukiah (1991) 2 Cal.App.4th 720, 734, 3
26 Cal.Rptr.2d 488.

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1 "Unsubstantiated opinions, concerns, and suspicions about a project,
2 though sincere and deeply felt, do not rise to the level of substantial evidence supporting
3 a fair argument of significant environmental effect." Newberry Springs Water Assn. v.
4 County of San Bernardino (1984) 140 Cal.App.3d 740, 749, 198 Cal.Rptr. 100
5 "Environmental decisions should be based on facts, not feelings." Newberry Springs v.
6 County, supra. In the Anastasi case, the lead agency presents no facts in the Initial Study
7 as to any negative aesthetic impact of the proposed project on the environment. The
8 lead agency can only cite concerns and feelings of neighbors. These concerns or fears are
9 not a proper basis for the lead agency to find that substantial environmental impact will
10 occur to the aesthetics as a result of the proposed project.

11 Mir Mar Mobile Community v. City of Oceanside, supra, involved a proposed
12 96-unit condominium project, consisting of two buildings separated by an unobstructed
13 view corridor between the buildings. An adjacent mobile home community brought an
14 action to oppose the project because, in part, the proposed project would "completely
15 block the ocean view, the sun and the ocean breezes enjoyed by the Mir Mar residents."
16 Some residents also complained that the proposed project would "completely take away
17 all the view of the ocean from the uphill properties."

18 The Mir Mar court stated, "as the City indicated in its written response to
19 public comments, *neither state nor local law protects private views from private lands and the*
20 *rights of one private landowner cannot prevail over the rights of another private landowner except*
21 *in accordance with uniformly applied standards and policies* as expressed in the City's general
22 plan, redevelopment plan, local coastal program and zoning ordinances. Because the
23 City applied the policies contained in the local coastal program, *we conclude it did not*
24 *abuse its discretion by concluding that the project would have no significant effects on*
25 *aesthetics, including views.*" (Emphasis Added)

26 In the present case, the Study finds no potentially significant affects, except
27 for concerns of area residents. Speculation and complaints are not considered to be
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1 "substantial evidence" for CEQA purposes. The proposed project is consistent with the
2 applicable land use plan and zoning ordinances already adopted by the County and City
3 when all such matters were considered. There is no potentially significant
4 environmental impact by the proposed project and therefore, an EIR should not be
5 required as to the aesthetics.

6 **2. AGRICULTURAL RESOURCES:**

- 7 (a) No objection;
8 (b) No objection;
9 (c) No objection;
10 (d) No objection.

11 **3. AIR QUALITY:**

- 12 (a) No objection;
13 (b) No objection;
14 (c) No objection;
15 (d) No objection;
16 (e) No objection;

17 **4. BIOLOGICAL RESOURCES:**

- 18 (a) Objection [See discussion following 4(c)];
19 (b) Objection [See discussion following 4(c)];
20 (c) Objection;

21 The Initial Study states that there is a "potentially significant" impact
22 caused by the proposed project that will "result in a loss of unique or special status
23 species or their habitats; reduce the extent, diversity or quality of native or other
24 important vegetation; and impact wetland or riparian habitat." However, nowhere in
25 the Initial Study does the lead agency establish that a "habitat" currently exists. Without
26 any proof of an "existing habitat" at the proposed project site, there is no basis upon
27 which to determine any significant impact due to the project.

1 (i) Habitat. The lead agency has failed to show the baseline habitat and
2 is, therefore, precluded from claiming environmental impact to the habitat from the
3 Project. "The initial study must identify the 'environmental setting' before assessing the
4 effect of the project." CEQA Guidelines §15063(d)(2). In determining the proper
5 environmental "baseline" of the proposed project, the Resources Agency amended
6 section 15125(a) in 1998 to define "environmental setting" as the "physical
7 environmental conditions in the vicinity of the project, as they exist at the time ...
8 environmental analysis is commenced, from both local and regional perspective. This
9 environmental setting will normally constitute the baseline physical conditions by which
10 a lead agency determines whether an impact is significant." CEQA Guidelines §15125(a)
11 (Emphasis Added); Fat v. County of Sacramento (2002) 97 Cal.App.4th 1270, 119
12 Cal.Rptr.2d 402.

13 In the present matter, the lead agency states in the Initial Study that
14 "removal of the habitat for endangered species has occurred," according to the United
15 States Fish and Wildlife Service thus admitting that the property contains no habitat. It
16 is irrelevant that a habitat for the Snail may have previously existed, the lead agency has
17 not established or proven in the Initial Study that an actual Snail habitat "currently
18 exists" at the project site. In fact, the only evidence of any kind is quite the contrary, i.e.,
19 that no habitat exists.

20 In Riverwatch v. County of San Diego (1999) 76 Cal.App.4th 1428, 91
21 Cal.Rptr.2d 322, developers sought to build a rock quarry. Objections over biological
22 resources of the proposed project were raised because of concerns over the habitat of
23 sensitive species such as the vireo and the arroyo toad. A draft EIR made the following
24 observations, "all of the approximately 13.1 acres of potential vireo habitat directly south
25 of the site that may be indirectly impacted by noise occurs within designated vireo
26 habitat. However, no vireos or flycatchers have been reported in the immediate project
27 vicinity, likely because the area has been cleared and/or is disturbed. Therefore, no

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1 vireos would be impacted in the vicinity of the project by noise generated by project
2 operations."

3 The Riverwatch court stated, "the DEIR describes existing conditions in the
4 project area, as required under CEQA. How these conditions came to exist, and whether
5 the past actions of third parties were properly authorized, may be of interest to resource
6 agencies for enforcement actions *but are not pertinent to the proposed project.*"
7 (Emphasis Added)

8 In the present case, it was the lead agency that ordered the removal of
9 veldt grass from the proposed project site. The removal of the veldt grass, in turn,
10 caused the removal of all vegetation some of which may or may not have been
11 considered habitat for the Snail. However, under Riverwatch, *supra*, how conditions
12 came to exist on the project area is *not pertinent* to the determination of habitat. If a
13 habitat for the Snail does not currently exist on the proposed site, the lead agency cannot
14 claim that proceeding with the project will have a significant environmental impact.

15 In the case of Association of Irrigated Residents v. County of Madera (2003) 107
16 Cal.App.4th 1383, 133 Cal. Rptr.2d 718, one of the issues addressed was whether the
17 proposed dairy operation would have a significant adverse effect on the kit fox. A
18 reconnaissance level biological field survey was performed on the proposed project
19 location. The biologist did not observe any special status plant or animal species and
20 found that the proposed dairy site did not support habitat for any special status species.
21 The biologist specifically noted that *no kit foxes or their sign were observed on the dairy site.*

22 In Association of Irrigated Residents, *supra*, the USFWS commented, "during
23 the field survey, no sign of threatened or endangered species was observed, nor was habitat
24 typically associated with these species present." The USFWS continued, "regardless of whether
25 protocol studies were conducted, the fact remains that no quality natural habitat is present
26 at the site. However, no one is refuting the possibility that San Joaquin kit fox could
27 utilize the area for foraging or possibly a corridor to other areas." The USFWS found

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1 that the proposed dairy site was unlikely to adversely impact or result in a "take" of the
2 kit fox.

3 In our matter, the USFWS found in December of 2004 that the property did
4 not have Snail habitat. The only pertinent question is whether the lead agency can
5 establish a currently existing habitat at the Project site. Clearly, the lead agency has
6 failed to establish a currently existing Snail habitat. The lack of habitat precludes the
7 lead agency from being able to establish any significant evidence of environmental
8 impact as a result of the proposed project. Based upon the fact that no habitat exists, the
9 lead agency should issue a negative declaration on biological resources.

10 (ii) Species. The Initial Study of 3/25/05 sets forth only conclusions
11 relating to habitat and species. These conclusions are an insufficient basis to require an
12 EIR. "To facilitate review, the initial study should contain supporting evidence and not
13 mere conclusions about potential environmental effects." Citizens Assn. for Sensible
14 Development of Bishop Area v. County of Inyo (1985) 172 Cal.App.3d 151, 171, 217 Cal.Rptr.
15 893. "If the initial study shows there is no substantial evidence that the project may have
16 a significant effect on the environment, a proposed negative declaration shall be
17 prepared." Guidelines § 15070(a); §15063(b)(2); Leonoff v. Monterey County Board of
18 Supervisors (1990) 222 Cal.App.3d 1337, 272 Cal.Rptr. 372.

19 The lead agency has not presented any evidence that the Snail exists in any
20 area near to or adjacent to the proposed project area that has been cleared of vegetation.
21 There is no proof as of December 2004 that the Snail exists on the proposed project
22 property. In fact, there has not been any confirmation of any live Snails since 1997.
23 Applying the holding and rationale of Riverside, *supra*, if no species currently exists for
24 any reason, including the possibility that the habitat has been disturbed or destroyed, it
25 is not pertinent to the proposed project and *an EIR cannot be required*. A negative
26 declaration is appropriate and should be prepared and issued by the lead agency.

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1 **5. CULTURAL RESOURCES:**

- 2 (a) No objection;
3 (b) No objection;
4 (c) No objection;
5 (d) No objection.

6 **6. GEOLOGY AND SOILS:**

- 7 (a) No objection;
8 (b) No objection;
9 (c) No objection;
10 (d) Objection [See discussion following 6(f)];
11 (e) No objection;
12 (f) Objection;

13 The Initial Study cites two areas of "potentially significant" impact on the
14 Geology and Soils related to the proposed project. These two areas are identified as "(d)
15 change rates of soil absorption, or amount or direction of surface runoff; and (f) change
16 the drainage patterns where substantial on- or off-site sedimentation/erosion or
17 flooding may occur."

18 In reference to drainage, the Study concludes, "in order to maintain such a
19 reduction in runoff, drainage from the tier of lots on the north side of the proposed new
20 street through the site ("A" Court) should be directed to the proposed detention basins
21 rather than Los Arboles Way. *In order to accomplish that, the proposed detention basins may*
22 *need to be enlarged or deepened somewhat, however, there appears to be sufficient area for*
23 *expansion on the proposed Lot 42, the proposed park site."* The lead agency states that the
24 impact of the proposed project is that "runoff towards Los Arboles Way and the adjacent
25 neighborhood will be reduced." Thus, the lead agency is identifying a potential
26 significant impact and the mitigation measure for that impact. Yet, the lead agency is
27 recommending an EIR to develop mitigation measures.

1 "If there is no substantial evidence a project 'may have a significant effect
2 on the environment' or the initial study identifies potential significant effects, but
3 provides for mitigation revisions which make such effects insignificant, a public agency
4 must adopt a negative declaration to such effect and, as a result, no EIR is required.
5 (Emphasis Added) Cal. Code Regs. §§21080(c) and 21064; Pala Band of Mission Indians v.
6 County of San Diego (1999) 68 Cal.App.4th 556, 80 Cal.Rptr.2d 294; Quail Botanical Gardens
7 Foundation, Inc. v. City of Encinitas (1994) 29 Cal.App.4th 1597, 35 Cal.Rptr.2d 470. In Pala
8 Band of Mission Indians, supra, the Pala Band of Mission Indians objected to the approval
9 by the County of San Diego of 10 proposed landfill sites. The Pala Indians cited an
10 objection letter to the County with references to 'considerable, but unspecified,
11 documentation of potential effects of the plan. The Pala court stated, "we conclude
12 Pala's comment letter does not constitute substantial evidence under the applicable 'fair
13 argument' standard because it consists almost exclusively of mere argument and
14 unsubstantiated opinion, which are excluded from the definition of substantial evidence
15 under CEQA."

16 Here, the Initial Study does not present any evidence to support a finding
17 of "fair argument" or "substantial evidence" that runoff water due to the proposed
18 project will impact surrounding areas. Notwithstanding that the lead agency has
19 recommended a mitigation measure in the expansion or improvement of the detention
20 basins. In Leonoff v. Monterey County Board of Supervisors (1990) 222 Cal.App.3d 1337, 272
21 Cal.Rptr. 372, the court stated, "here the initial study did not identify any significant
22 environmental effects. Since CEQA does not require mitigation of potentially
23 insignificant environmental effects, it provides no basis for faulting County for doing
24 so." In the present case, the lead agency did not identify or present any evidence that
25 Anastasi's plan does not sufficiently handle runoff water.

26 "Even if the initial study had identified significant environmental effects, a
27 negative declaration would be appropriate if developer agreed to conditions that would

1 mitigate those effects to insignificance before release of proposed negative declaration.
2 Code §21080(c)(2); Guidelines §15070(b); Schaeffer Land Trust v. San Jose City Council
3 (1989) 215 Cal.App.3d 612, 263 Cal.Rptr. 813. Anastasi will comply with all existing
4 County Codes and requirements regarding drainage plans and implementation, all of
5 which were adopted to deal with such matters.

6 "Every project which has an effect on the environment is not necessarily
7 one for which an EIR must be prepared. It is established that a negative declaration will
8 be sustained unless as a matter of law it appears that the project as a whole will have a
9 substantial adverse impact on the environment." Running Fence Corporation v. Superior
10 Court of California, County of Sonoma (1975) 51 Cal.App.3d 400, 124 Cal.Rptr. 339; Plan for
11 Arcadia, Inc. v. City Council of Arcadia (1974) 42 Cal.App.3d 712, 724-726, 117 Cal.Rptr. 96;
12 Hixon v. County of Los Angeles (1974) 38 Cal.App.3d 370, 379-382, 113 Cal.Rptr. 433.

13 In Running Fence Corporation v. Superior Court of California, County of
14 Sonoma, *supra*, the successful applicant, Petitioner, for a use permit to construct a 24-mile
15 fence along a highway as an art project sought a writ of prohibition to restrain the Court
16 from stopping the proposed project and requiring an EIR to determine the
17 environmental impact of the fence. The Running Fence court held for Petitioner and
18 granted the writ of prohibition. The Running Fence court found, "where the applicant has
19 tailored his project and is willing to accept conditions which the appropriate agency finds will
20 render the project such that it will not have a substantial adverse effect on the environment, his
21 admissions and concessions should not be turned against him to further delay the
22 project in the absence of evidence that the project as designed and projected and approved will
23 have a substantial adverse effect as a matter of law." (Emphasis Added)

24 In the present case, the lead agency has identified potential impact to the
25 environment due to drainage and runoff concerns. The lead agency also states that
26 runoff to Los Arboles Way and adjacent neighborhoods will be reduced by the project.
27 Yet, in the next sentence, the agency recommends an EIR to study the drainage and
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1 runoff to Los Arboles Way and other streets caused by the proposed project. The agency
2 even suggests that a possible mitigation would be the widening or deepening of the
3 detention basins. The proposed project meets all criteria to adequately accommodate
4 any effect from runoff water. The lead agency does not present any evidence that any
5 negative impact will likely occur.

6 Based upon the Pala Band of Mission Indians v. County of San Diego, supra,
7 and Running Fence Corporation v. Superior Court of California, County of Sonoma, supra, case
8 law authority, without a demonstration by the lead agency of a significant effect or
9 impact by the project, an EIR is not required. All of the administrative evidence taken as
10 a whole does not justify the preparation of an EIR when the agency has already
11 determined that the impact will not be significant. Anastasi will comply with the
12 County Codes. An EIR is not required for Geology and Soils. A negative declaration
13 should be issued by the lead agency.

14 (g) No objection;

15 (h) No objection;

16 (i) No objection;

17 (j) No objection.

18 **7. HAZARDS & HAZARDOUS MATERIALS:**

19 (a) No objection;

20 (b) No objection;

21 (c) No objection;

22 (d) No objection;

23 (e) No objection;

24 (f) No objection.

25 **8. NOISE:**

26 (a) No objection;

27 (b) No objection;

1 (c) No objection;

2 (d) No objection.

3 9. **POPULATION / HOUSING:**

4 (a) No objection;

5 (b) No objection;

6 (c) No objection;

7 (d) No objection;

8 (e) No objection;

9 10. **PUBLIC SERVICES / UTILITIES:**

10 (a) No objection;

11 (b) No objection;

12 (c) No objection;

13 (d) No objection;

14 (e) No objection;

15 (f) No objection;

16 (g) No objection.

17 11. **RECREATION:**

18 (a) No objection;

19 (b) No objection;

20 (c) No objection.

21 12. **TRANSPORTATION:**

22 (a) Objection.

23 The Initial Study states that there is a "potentially significant" impact of the
24 proposed project to be caused by "increase vehicle trips to local or area wide circulation
25 system." This is the only transportation item designated as potentially significant. All of
26 the other items have no impact or the impact can be mitigated. The Study states, "no
27 significant traffic-related concerns were identified." The Study discusses a potential

1 mitigation of traffic concerns by the extension of Highland Drive. In the present case,
2 there are only 40 residential homes proposed and the estimated increase in trips per day
3 due to this project is 383. The Study claims "this small amount of additional traffic
4 should not result in a significant change to the existing road service levels or traffic
5 safety."

6 The lead agency, nevertheless, requests an EIR to evaluate potential traffic
7 impact and mitigation measures. The agency does not substantiate this request with any
8 evidence that the proposed project will have a significant negative impact on the
9 environment. In fact, the Initial Study claims the opposite when it states that an
10 estimated 383 trips per day should not result in "significant change" in existing roadway
11 service levels or traffic. This finding of no "significant change" is sufficient to support
12 the issuance of a negative declaration. "To facilitate review, the initial study should
13 contain supporting evidence and not mere conclusions about potential environmental
14 effects." Citizens Assn. for Sensible Development of Bishop Area v. County of Inyo (1985) 172
15 Cal.App.3d 151, 171, 217 Cal.Rptr. 893. "Although an initial study can identify
16 environmental effects by use of a checklist, it must also disclose the data or evidence
17 upon which the person(s) conducting the study relied. Mere conclusions simply provide
18 no vehicle for judicial review." Topanga Assn. for a Scenic Community v. County of Los
19 Angeles (1974) 11 Cal.3d 506, 515, 113 Cal.Rptr. 836, 522 P.2d 12.

20 In the present case, the lead agency cites the fact that "the current
21 Circulation Element for the Estero Planning Area shows Highland Drive being extended
22 through this site to connect with Pecho Valley Road. However, the proposed Estero
23 Area Plan Update deletes that planned extension. A potential street connection between
24 this site and Madera Avenue may facilitate a secondary access for the Cabrillo Estates
25 neighborhood." The Initial Study also claims, "potential traffic impacts on Los Arboles
26 Way and Montana Way, both local streets, are unknown, and should be evaluated in the
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1 EIR." However, as noted above, the Initial Study finds that the 383 trips per day are not
2 "significant impacts."

3 The "small amount of additional traffic" (as stated in the Initial Study)
4 created by the proposed project does not rise to the level of significant environmental
5 impact by the County's own admission. The Initial Study findings and its ultimate
6 conclusion are inconsistent and contradictory. Anastasi contends that based upon the
7 statutes and cases cited above, an EIR is not required for Traffic Circulation. A negative
8 declaration should be issued by the lead agency.

9 (b) No objection;

10 (c) No objection;

11 (d) No objection;

12 (e) No objection;

13 (f) No objection;

14 (g) No objection;

15 (h) No objection;

16 (i) No objection.

17 **13. WASTEWATER:**

18 (a) No objection;

19 (b) No objection;

20 (c) No objection;

21 (d) No objection.

22 **14. WATER:**

23 (a) No objection;

24 (b) No objection;

25 (c) No objection;

26 (d) No objection;

27 (e) No objection;

1 (f) Objection.

2 The Initial Study indicates "insignificant impact" or "mitigated impact" for
3 water usage of the proposed project, except for the final item. The Study states "Cal
4 Cities Water will serve the proposed project, and the existing, estimated safe yield of the
5 groundwater basin, even without the planned LOCSD sewer system, *is sufficient to*
6 *accommodate this proposed development,*" thereby admitting no significant impact. The
7 Study then continues, "however, this project, when considered together with future
8 development that could occur in the Estero Area Plan, may result in significant
9 cumulative impacts on water supply and quality." Based on this finding of "potential
10 cumulative" water supply and quality impacts and recommended feasible mitigation
11 measures the agency recommends an EIR.

12 The lead agency unilaterally concludes that future development will have
13 significant cumulative impacts on water supply. Again, the lead agency does not
14 support its finding of significant impacts with any written reports, documents or expert
15 testimony. The agency does not cite any future development in the project area that
16 would have a "cumulative" negative effect on the environment. Therefore, the Initial
17 Study finding on water impact is based only on speculation and assumption. "Where
18 *future development is unspecified and uncertain, no purpose can be served by requiring an EIR to*
19 *engage in sheer speculation as to future environmental consequences."* Plan for Arcadia, Inc. v.
20 City Council of Arcadia (1974) 42 Cal.App.3d 712, 726, 117; Cal.Rptr. 96; Christward
21 Ministry v. Superior Court (1986) 184 Cal.App.3d 180, 228 Cal.Rptr. 868. (Emphasis
22 Added) Here, the lead agency does not identify any specific future development in the
23 proposed project area that may have negative impact on the local water supply.

24 Case law authority has defined future development to be either the
25 "expansion" of the proposed project or the effects of other (third party) projects within
26 the project area. "Under this standard, the facts of each case will determine whether and
27 to what extent an EIR must analyze future expansion or other action." Laurel Heights

1 Improvement Assn. v. Regents of University of California (1988) 47 Cal.3d 376, 396, 253
2 Cal.Rptr. 426, 764 P.2d 278. Laurel Heights, *supra*, is a California Supreme Court case that
3 involved a proposed relocation of a university's biomedical research facilities. The
4 Supreme Court found that an EIR did not adequately address the future uses of the
5 facility.

6 Laurel Heights can be distinguished from the present case. In Laurel Heights,
7 the university had knowledge of future expansion of the biomedical research facility and
8 the court found that expansion was reasonably foreseeable. Here, Anastasi does not
9 intend or propose an "expansion" of the proposed project, nor is Anastasi aware of any
10 current developments under review by the lead agency. The lead agency has not
11 disclosed or indicated any new or anticipated developments. There has been no
12 disclosure of applications that have been filed or submitted for review within the
13 Anastasi project area. Therefore, there are no "reasonably foreseeable" future
14 developments that must be considered for cumulative environmental impact.

15 Without any evidence of other future developments within the project
16 area, an EIR to determine the cumulative impacts on water quantity and quality is
17 inappropriate. "It is unnecessary in an EIR to engage in sheer speculation as to future
18 environmental consequences. It would be unreasonable to expect this EIR to produce
19 detailed information about the environmental impacts of a future [project] whose scope
20 is uncertain and which will in any case be subject to its own environmental review."

21 Towards Responsibility in Planning (TRIP) v. City Council (1988) 200 Cal.App.3d 671, 246
22 Cal.Rptr. 317.

23 A review of CEQA Guidelines is necessary for a discussion of cumulative
24 impacts. In §15355, "'cumulative impacts' refer to two or more individual effects which,
25 when considered together, are considerable or which compound or increase other
26 environmental impacts. (a) The individual effects may be changes resulting from a
27 single project or a number of separate projects. (b) The cumulative impact from several

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1 projects is the change in the environment which results from the incremental impact of
2 the project when added to *other closely related* past, present, and *reasonably foreseeable*
3 *probable future projects.*" (Emphasis added) San Joaquin Raptor / Wildlife Rescue Center v.
4 County of Stanislaus (1996) 42 Cal.App.4th 608, 623-624, 49 Cal.Rptr.2d 494.

5 However, cumulative effects must be limited in scope to "probable future
6 projects." Cal. Code Reg §15130(b)(1)(B)2 states: "probable future projects may be
7 limited to those projects requiring an agency approval for an application which has been
8 received at the time the notice of preparation is released, unless abandoned by the
9 applicant." In San Franciscans for Reasonable Growth v. City and County of San Francisco
10 (1984) 151 Cal.App.3d 61, 198 Cal.Rptr. 634, the court stated, "as we have noted, the
11 Commission read this language to mean (1) *approved, but not yet constructed*, projects,
12 and (2) *projects under construction.*" (Emphasis Added)

13 In San Franciscans for Reasonable Growth v. City and County of San Francisco,
14 *supra*, the court stated, "Projects are constantly being fed into the environmental review
15 process. The problem is where to draw the line on "projects under review."
16 "Experience and common sense indicate that projects which are *under review* are
17 reasonably foreseeable projects." "Similarly, the fact that other projects being reviewed
18 are as close to being built as the subject project makes it reasonable to consider them in
19 the cumulative analysis." San Franciscans, *supra*.

20 In the present case, the Initial Study does not present any evidence of any
21 current projects under review or any anticipated future projects being considered by the
22 lead agency. Anastasi is not aware of any "future projects" within the vicinity of the
23 proposed project nor any that would have a cumulative effect on the quantity or quality
24 of the water supply.

25 The Initial Study recommends an EIR to determine the future cumulative
26 effects on the water supply and quality. However, the lead agency has not shown
27 substantial evidence that the present proposed project taken into consideration with
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1 reasonably foreseeable projects will cause cumulative negative impact on the water.
2 Therefore, an EIR should not be required based upon the agency's failure to prove any
3 "future developments" and how those projects will have a negative cumulative effect on
4 the water supply and quality.

5 All of the administrative evidence taken as a whole does not justify the
6 preparation of an EIR to determine possible cumulative negative effects on water supply
7 and quality when the lead agency has already determined that the impact will not be
8 significant. Therefore, it is respectfully submitted that a Negative Declaration or a
9 Mitigated Negative Declaration be issued by the lead agency on all water matters.

10 **15. LAND USE:**

11 (a) Objection.

12 The Initial Study claims that the project will be potentially inconsistent
13 with land use, policy/regulation (e.g., general plan) adopted to avoid or mitigate for
14 environmental effects. The lead agency again fails to specifically support with any
15 evidence, the "potential inconsistencies" of the proposed project with any existing
16 government "general plan."

17 In Corona-Norco Unified School District v. City of Corona (1993) 17 Cal.App.4th
18 985, 21 Cal.Rptr.2d 803, the court found, "an action, program, or project is consistent
19 with the general plan if, considering all its aspects, it will further the objectives and
20 policies of the general plan and not obstruct their attainment." "The zoning consistency
21 requirement requires local governments to maintain their zoning in a manner consistent
22 with their general plans. Every zoning action must be consistent with the plan, and a
23 zoning ordinance that is inconsistent with the general plan at the time it is enacted is
24 'invalid' when passed." Sierra Club v. Board of Supervisors (1981) 126 Cal.App.3d 698, 704,
25 179 Cal.Rptr. 261.

26 Here, the Initial Study does not indicate that any portions of the proposed
27 plan are "inconsistent" with the County's general plan, just "potentially inconsistent" for

the very same reasons stated in the earlier portions of the Initial Study. Anastasi has objected and responded to these potentially inconsistent aspects of the project in sections 1; 4; 6; 12; and 14 above.

(b) Objection.

The Initial Study claims that the project will be potentially inconsistent with any habitat or community conservation plan. The lead agency cites the "draft" Los Osos Habitat Conservation Plan, which the agency admits "*is not yet in effect.*" The Initial Study goes on to state, "in order to satisfy the requirement of the Endangered Species Act, the applicants have submitted to the U.S. Fish and Wildlife Service an individual HCP for this site, but that HCP has not been approved."

Anastasi has been in discussions with the USFWS about the proposed project site and potential habitat protection. There is a draft Habitat Conservation Plan ("HCP") but it has not been approved. These matters, however, are irrelevant to the issue of an EIR. According to all current evidence, there is no currently existing "habitat" or any endangered species on the proposed project property. Therefore, the proposed project is not inconsistent with any habitat or community conservation plan.

(c) Objection.

The Initial Study claims that the project will be potentially inconsistent with adopted agency environmental plans or policies with jurisdiction over the project. The lead agency does not identify any inconsistencies with any "adopted" plans or policies of any agency with any jurisdiction over this project.

Anastasi's proposed project plan complies with all environmental requirements and there are no inconsistencies or conflicts with any adopted plans of any known governmental agencies with jurisdiction over this proposed project. Therefore, the proposed land use is not inconsistent as the Initial Study contends.

1 (d) Objection.

2 The Initial Study contends that the project will be potentially incompatible
3 with surrounding land uses. However, as addressed in paragraph 1, Aesthetics, the lead
4 agency does not find any specific evidence of incompatibility with the surrounding land
5 uses. As discussed thoroughly in section 1, the mere speculation of neighbor complaints
6 or fears of blocked views is not sufficient to raise to the level of significant effects.

7 Without substantial evidence, the lead agency cannot establish that the
8 land uses will be potentially incompatible with the surrounding land uses.

9 (e) No objection.

10 **16. MANDATORY FINDINGS OF SIGNIFICANCE:**

11 (a) Objection.

12 The Initial Study finds that the proposed project will have a "potentially
13 significant" impact to degrade the quality of the environment or substantially reduce the
14 habitat. The lead agency continues to contend that the Snail's habitat will be degraded
15 or substantially reduced due to the proposed project.

16 As discussed in section 4, Biological Resources, Anastasi addresses, at
17 length, its position on the Snail's habitat. Before the lead agency can make a Mandatory
18 Finding of Significance on the impact on biological resources, the agency must overcome
19 the initial burden of establishing an "existing" biological habitat. The finding of
20 significant impact on the Snail habitat is speculative at best, and clearly unsupported,
21 since the agency cannot show that the project site has any habitat on it.

22 There was no evidence or argument presented by the Initial Study that
23 would justify a Mandatory Finding of Significance to a biological resource.

24 (b) Objection.

25 The Initial Study states a Mandatory Finding of Significance that the
26 proposed project will have a "potentially significant" impact that is individually limited,
27 but cumulatively considerable. The Initial Study indicated in section 12,

1 Transportation/Circulation and section 14, Water, that future development may have
2 significant "cumulative" effects on the environment.

3 The lead agency failed to identify in the Initial Study any negative
4 cumulative impact of the proposed project considered in connection with the effects of
5 past, current, or probable future projects. In both sections 12 and 14, the lead agency
6 does not provide any specific evidence of any effects from any past, present or future
7 projects. The Initial Study merely concludes that the project has potentially significant
8 cumulative impacts due to future development. The future development is not
9 identified because it does not exist.

10 The Initial Study on cumulative impacts is speculative and without
11 evidentiary support. The statutory and case law authority is discussed in detail in
12 sections 12 and 14 above. The lead agency had no basis for a Mandatory Finding of
13 Significance for cumulative effects, since the Initial Study did not identify any closely
14 related projects to which the proposed project could be considered.

15
16 Dated: July 8, 2005

ARTIANO, GUZMAN & TOOMEY, LLP

17 By 
18 JAMES ARTIANO

19 Attorneys for Anastasi Development Company
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LAND USE COMMITTEE PROJECT REFERRAL RESPONSE

File Number: TR2251

Date: 6/24/2005

Planner: Mike Wulkan

Applicant: Anastasi Construction Co.

Address: East of Pacho Valley Road and South of Montana Way

Project:

Develop and subdivide an existing 9.1 acre parcel into 42 parcels ranging in size from 6,000 to 15,022 square feet, including 40 residential parcels, a park and detention basins, for the purpose of sale and/or development.

Los Osos Community Advisory Council Recommendation:

LOCAC supports the findings of the Planning Departments Initial Study and the recommendation that the applicant prepare an EIR for this project. We are particularly disturbed by the removal of vegetation on the site that has a potential to be in violation of the Endangered Species Act. With the current water supply in the basin in overdraft we believe that a subdivision such as this should not be acted upon until the situation is reversed. Additional comment is:

4. BIOLOGICAL RESOURCES

d) Introduce barriers to movement of resident or migratory fish or wildlife species, or factors, which could hinder the normal activities of wildlife?

LOCAC suggest this as Impact can & will be mitigated

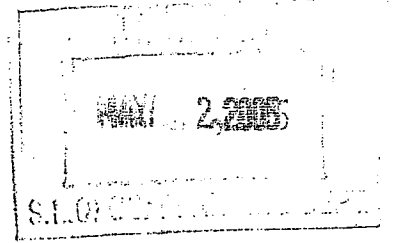
Reason – This property is on a known wildlife corridor

LOCAC will send a letter to the Board of Supervisors requesting that they deny the applicants request to forego an EIR and to require the applicant to follow the recommendations of County Planning.

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ANASTASI
DEVELOPMENT COMPANY, LLC

April 28, 2005



Mike Wulkan
Coastal Planning and Permitting
Department of Planning and Building
SLO county Government Center
San Luis Obispo, CA 93408

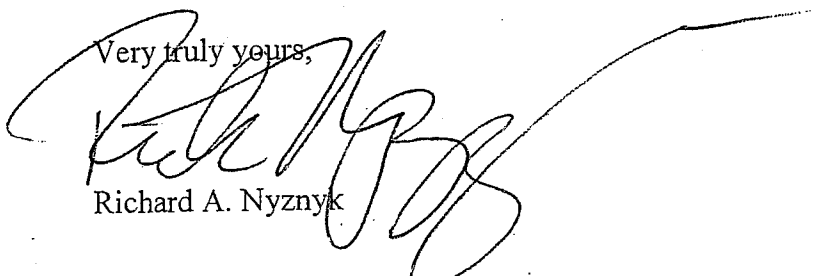
Re: Application for Tentative Tract 2251/ Development
Plan D990109D/Coastal Development Permit
Environmental Determination

Dear Mike:

As we have already discussed by telephone, Anastasi does not agree with the Environmental Coordinator's determination that an EIR is required on the above referenced application. Accordingly, please confirm that we will have a hearing before the Board of Supervisors on the Environmental Coordinator's determination at the Board's June 28, 2005 meeting, unless you are able to confirm a hearing of this matter on the Board's July 12, 2005 Agenda, as I have previously requested.

Thank you for your consideration and cooperation.

Very truly yours,

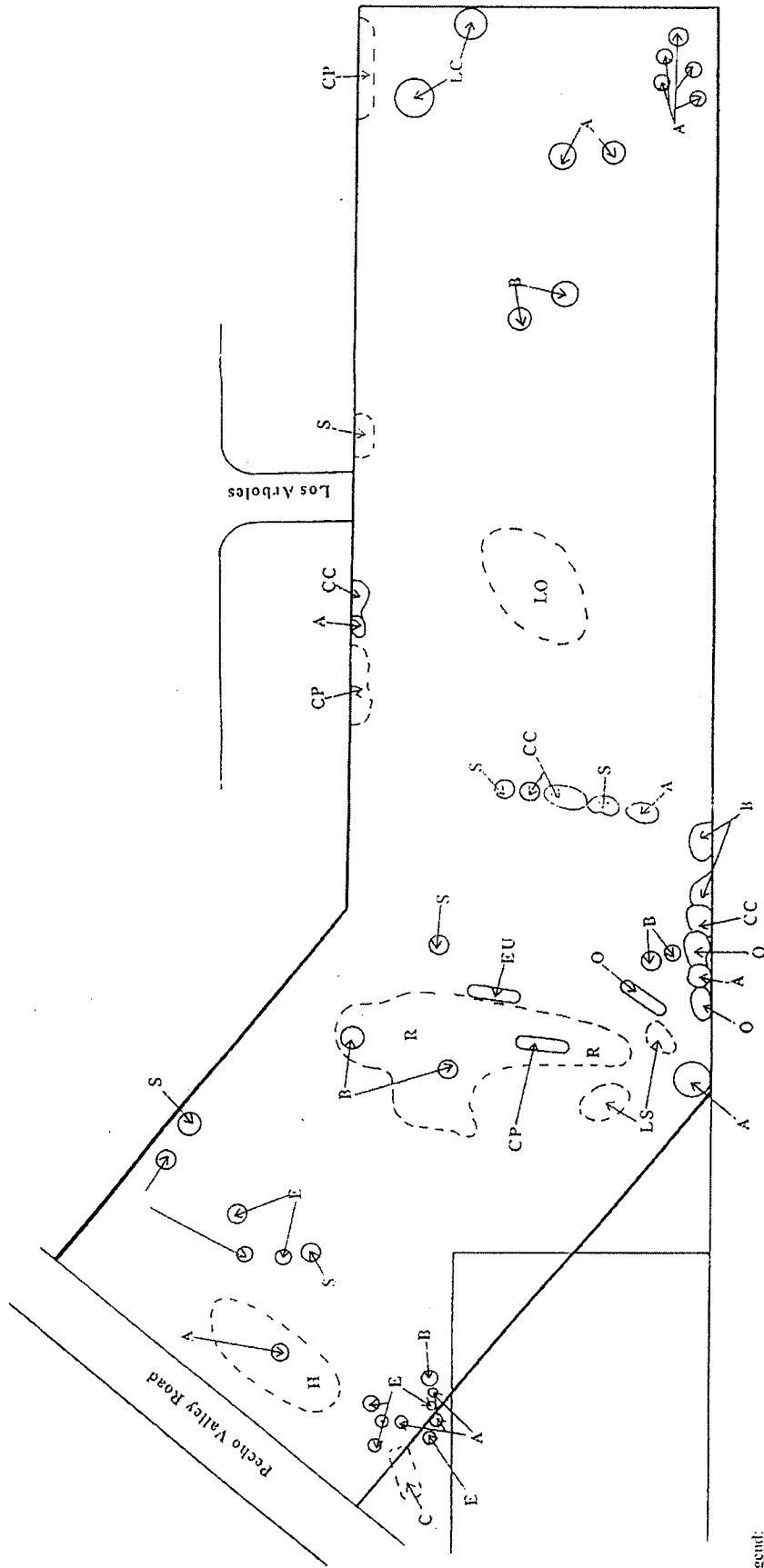

Richard A. Nyznyk

RAN/bpa

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EXHIBIT C: VEGETATION MAPS

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Legend:

E	Ericameria ericoides (Heather goldengrass)	H	Areas containing Heterotheca	CC	Ceanothus
B	Baccharis pilularis (Coyote brush)	C	Areas containing Crotalaria californica (California cotton)	LO	Scattered lotus sp.
S	Salvia heliifera (Black sage)	CP	Areas containing Carpobrotus sp. (Sea fig / Hottentot fig)	O	Unknown ornamental
Q	Quercus agrifolia (Coast live oak)	LS	Areas containing Lupinus sp. (Lupine)	EU	Eucalyptus sp.
LC	Lupinus Chamaecrispis (Dune lupine)	R	Areas containing Ricinus communis (Castor bean)	A	Artemisia californica (California sagebrush)



North
Not to Scale
Source: Morro Group, Inc.

Figure 5
THE FARM PROPERTY
Vegetation Map

PROJECT

Tract Map
Anastasi S970007T

EXHIBIT

Site Plan



26



Survey Date: July 2003



NORTH
As Shown

Morro Group, Inc.

VEGETATION MAP
Farm Property - Phase II
FIGURE 5

11

EXHIBIT

Vegetation Map - Aerial

PROJECT

Tract Map
Anastasi S970007T



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EXHIBIT D: INITIAL STUDY

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REVISED 1/24/06



**COUNTY OF SAN LUIS OBISPO
INITIAL STUDY SUMMARY - ENVIRONMENTAL CHECKLIST**

Project Title & No. Anastasi Construction Co. Vesting Tentative Tract Map
/Development Plan/Coastal Development Permit ED 04-412/TR 2251/D990109D

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED: The proposed project could have a "Potentially Significant Impact" for at least one of the environmental factors checked below. Please refer to the attached pages for discussion on mitigation measures or project revisions to either reduce these impacts to less than significant levels or require further study.

- | | | |
|--|---|--|
| <input checked="" type="checkbox"/> Aesthetics | <input checked="" type="checkbox"/> Geology and Soils | <input checked="" type="checkbox"/> Recreation |
| <input type="checkbox"/> Agricultural Resources | <input type="checkbox"/> Hazards/Hazardous Materials | <input checked="" type="checkbox"/> Transportation/Circulation |
| <input type="checkbox"/> Air Quality | <input checked="" type="checkbox"/> Noise | <input checked="" type="checkbox"/> Wastewater |
| <input checked="" type="checkbox"/> Biological Resources | <input type="checkbox"/> Population/Housing | <input checked="" type="checkbox"/> Water |
| <input type="checkbox"/> Cultural Resources | <input checked="" type="checkbox"/> Public Services/Utilities | <input checked="" type="checkbox"/> Land Use |

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation, the Environmental Coordinator finds that:

- ☐ The proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- ☐ Although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- ☒ The proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- ☐ The proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- ☐ Although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Mike Wulkan
Prepared by (Print)

Mike Wulkan
Signature

January 24, 2006
Date

Steve McMasters
Reviewed by (Print)

Steve McMasters
Signature

Ellen Carroll,
Environmental Coordinator
(for)

1/26/06
Date

6/13

Project Environmental Analysis

The County's environmental review process incorporates all of the requirements for completing the Initial Study as required by the California Environmental Quality Act (CEQA) and the CEQA Guidelines. The Initial Study includes staff's on-site inspection of the project site and surroundings and a detailed review of the information in the file for the project. In addition, available background information is reviewed for each project. Relevant information regarding soil types and characteristics, geologic information, significant vegetation and/or wildlife resources, water availability, wastewater disposal services, existing land uses and surrounding land use categories and other information relevant to the environmental review process are evaluated for each project. Exhibit A includes the references used, as well as the agencies or groups that were contacted as a part of the Initial Study. The Environmental Division uses the checklist to summarize the results of the research accomplished during the initial environmental review of the project.

Persons, agencies or organizations interested in obtaining more information regarding the environmental review process for a project should contact the County of San Luis Obispo Environmental Division, Rm. 310, County Government Center, San Luis Obispo, CA, 93408-2040 or call (805) 781-5600.

A. PROJECT

DESCRIPTION: Proposal by Anastasi Construction Co. for a vesting Tentative Tract Map, Development Plan and Coastal Development Permit to develop and subdivide an existing 9.1-acre parcel into 42 parcels ranging from 6,000 to 15,022 square feet, including 40 residential parcels, a park and detention basins, for the purpose of sale and/or development. The project will result in the disturbance of approximately 9.1 acres and 25,000 cubic yards of material, with grading to be balanced on site. The subdivision will create three on-site roads. Future development is to connect to the planned Los Osos Community Services District sewer system. The proposed project is within the Residential Single Family land use category and is located on the east side of Pecho Valley Road, approximately 350 feet south of Montana Way in the community of Los Osos. The site is in the Estero Planning Area.

ASSESSOR PARCEL NUMBER(S): 074-025-010

SUPERVISORIAL DISTRICT # 2

B. EXISTING SETTING

PLANNING AREA: Estero, Los Osos

LAND USE CATEGORY: Residential Single Family

COMBINING DESIGNATION(S): Local Coastal Plan/Program , Archaeologically Sensitive

EXISTING USES: Vacant

TOPOGRAPHY: Gently sloping ,slopes generally up to 10 percent

VEGETATION: Little or no vegetation per November 2004 letter from U.S. Fish and Wildlife Service; grasses, shrubs, small amount of coastal dune scrub per November 2003 draft HCP

PARCEL SIZE: 9.1 acres

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SURROUNDING LAND USE CATEGORIES AND USES:

North: Residential Single Family; residential

East: Residential Single Family; vacant
(graded building pads)

South: ; Public Facilities/Residential Single
Family/Residential Suburban; detention
basin, residential

West: Residential Suburban; residential

C. ENVIRONMENTAL ANALYSIS

During the Initial Study process, several issues were identified as having potentially significant environmental effects (see following Initial Study). Of those potentially significant items associated with the proposed uses, biological resources, geology and soils: drainage, transportation/circulation, cumulative water use, and land use can not be minimized to less than significant levels and need to be addressed in an EIR.

COUNTY OF SAN LUIS OBISPO INITIAL STUDY CHECKLIST

1.	AESTHETICS - Will the project:	Potentially Significant	Impact can & will be mitigated	Insignificant Impact	Not Applicable
a)	Create an aesthetically incompatible site open to public view?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b)	Introduce a use within a scenic view open to public view?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c)	Change the visual character of an area?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d)	Create glare or night lighting, which may affect surrounding areas?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e)	Impact unique geological or physical features?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f)	Other: <u>Visual compatibility</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Setting. The project will be visible from Los Osos Valley Road, an arterial road at this location. The duration of the view from that road would be short. The site is not within a highway corridor or SRA for visual quality, and is not located on a hillside or ridgetop. The project site is surrounded by existing or proposed single-family residences on nearly all sides, except for an intervening drainage basin and other county-owned land on the south side of the site.

Impact. The proposed project is not located on a prominent hillside, hilltop or ridgeline, and proposed development will therefore not silhouette against the sky. Due to the site's location on the east side of Pecho Valley Road and the lack of key, public viewing areas in the vicinity, the proposed project will not affect public views to and along the coast. The appearance of a proposed six-foot high noise wall along a portion of the Pecho Valley Road frontage will be softened by a landscaped berm and decorative treatment of the wall.

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The proposed project is not expected to result in significant, adverse light and glare impacts, as lighting, especially night lighting from the proposed development will be similar to lighting from other residential development in the immediate vicinity. Furthermore, outdoor lighting will be subject to Coastal Zone Land Use Ordinance Section 23.04.320, which includes standards to direct light away from streets and other dwellings, to minimize light intensity and to shield light sources. Compliance with those standards will avoid the potential for significant impacts due to light and glare.

Some area residents have expressed concerns that single or two story homes on the north side of the proposed road through the subdivision could negatively effect visual quality of existing homes below due to the grade differential. According to the preliminary grading plan for the proposed project, the pad elevations of the proposed lots vary from roughly 15 to 20 feet higher than those of the houses below in the Vista de Oro subdivision, largely due to existing topography. Large, two-story houses on the proposed lots could be visually obtrusive to residents below and incompatible with the adjacent homes, and could adversely affect privacy. Measures to avoid such impacts include limiting the height of structures on certain lots. This issue does not involve public views, but could be an issue of controversy. It should be addressed in the EIR through a visual analysis and recommended mitigation measures as applicable.

Mitigation/Conclusion. No mitigation measures are necessary.

2. AGRICULTURAL RESOURCES

- Will the project:

	Potentially Significant	Impact can & will be mitigated	Insignificant Impact	Not Applicable
a) <i>Convert prime agricultural land to non-agricultural use?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) <i>Impair agricultural use of other property or result in conversion to other uses?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) <i>Conflict with existing zoning or Williamson Act program?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) <i>Other:</i> _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Setting. The soil type consists of

Baywood fine sand (2-9%)

As described in the NRCS Soil Survey, the "non-irrigated" soil class is "VI" , and the "irrigated soil class is "IV".

The site is currently vacant, but has historically been used for irrigated row crops and horse pasture. The site is in an urban area, is zoned for residential development, and is largely surrounded by existing and proposed residential development.

Impact. The project is located in a non-agricultural area. No agricultural activities currently occur on the property or immediate vicinity. There will be no impact to existing agricultural uses, and no loss of prime or productive agricultural soils. Therefore, no impacts to agricultural resources are anticipated.

Mitigation/Conclusion. No mitigation measures are necessary.

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3. AIR QUALITY - <i>Will the project:</i>	Potentially Significant	Impact can & will be mitigated	Insignificant Impact	Not Applicable
a) <i>Violate any state or federal ambient air quality standard, or exceed air quality emission thresholds as established by County Air Pollution Control District?</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) <i>Expose any sensitive receptor to substantial air pollutant concentrations?</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) <i>Create or subject individuals to objectionable odors?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) <i>Be inconsistent with the District's Clean Air Plan?</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) <i>Other:</i> _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Setting/Impacts. In 1989, the State Air Resources Board designated San Luis Obispo County a non-attainment area for exceeding the State's air quality standards set for ozone and dust (small particulate matter or PM₁₀). In January, 2004, the State ARB determined that the county was in attainment for ozone. To help maintain attainment for ozone, APCD has established emission thresholds of significance, and corresponding measures to reduce nitrous oxides (NO_x) and reactive organic gasses (ROG), that are precursors to ozone, and typically generated from vehicle emissions.

Two classes of particulate matter with air quality standards are PM₁₀ (respirable particulate matter less than 10 microns in size), and PM_{2.5} (fine particulate matter 2.5 microns or less in size). Both consist of many different types of particles that vary in their chemical activity and toxicity. PM_{2.5} tends to be a greater health risk since it cannot be removed from the lungs once it is deeply inhaled. Sources of particulate pollution include: diesel exhaust, mineral extraction and production; combustion products from industry and motor vehicles; demolition and construction; agricultural operations; smoke from open burning; paved and unpaved roads; condensation of gaseous pollutants into liquid or solid particles; and natural sources such as wind-blown dust.

Based on the latest air monitoring station information (per the County's RMS annual report, 2003), the trend in air quality in the general area is stable. Unacceptable PM₁₀ levels were exceeded in 2002 (latest year available) at the Morro Bay monitoring station one time out of 60 monitoring days, which is up from the previous four years, during which there were no exceedences)

As proposed, the project will result in the disturbance of approximately nine acres and grading of about 25,000 cubic yards of material. During construction, short-term vehicle emissions and the creation of dust will result. In addition, the project will generate about 400 average vehicle trips daily for the life of the project. Based on Table 1-1 of the CEQA Air Quality Handbook, the project will generate between 10 and 24 lbs./day of pollutants, which would warrant measures to mitigate for air quality impacts. As described below, sufficient mitigation is available to reduce impacts to below the 25 lbs/day significance threshold.)

Mitigation/Conclusion. The project was referred to the Air Pollution Control District (APCD) for potential air quality impacts and consistency with the Clean Air Plan (CAP). Per APCD's response (see attached), the following issues were identified: potential naturally occurring asbestos, and

sufficient ground disturbance/grading to warrant construction dust control measures. To mitigate these potential impacts, the District recommends that project grading and construction comply with APCD's standard construction dust control measures. In addition, the project should incorporate APCD rules regarding residential wood-burning devices and burning of vegetative matter. Based on the proposed project and implementation of the proposed mitigation measures relating to air quality, impacts will be reduced to less than significant levels.

4. BIOLOGICAL RESOURCES -
Will the project:

	Potentially Significant	Impact can & will be mitigated	Insignificant Impact	Not Applicable
a) <i>Result in a loss of unique or special status species or their habitats?</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) <i>Reduce the extent, diversity or quality of native or other important vegetation?</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) <i>Impact wetland or riparian habitat?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) <i>Introduce barriers to movement of resident or migratory fish or wildlife species, or factors, which could hinder the normal activities of wildlife?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) <i>Other:</i> _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Setting. In June 1998, a Draft Habitat Conservation Plan (HCP)/Environmental Assessment (EA) was prepared for this site by Anastasi Construction Co., with assistance from the Morro Group. According to that report, the vegetation primarily consisted of plants that are characteristic of annual grasslands and ruderal habitats. Scattered shrubs, many in poor condition, and scattered remnant patches of veldt grass were also present. A vegetation map of the site appears to show one coast live oak and one or more eucalyptus trees.

Several of the remnant shrubs and sub-shrubs, including California sagebrush and ceanothus, are characteristic of coastal dune scrub plant communities. Such vegetation was assumed to provide suitable habitat for the Morro shoulderband snail, federally-listed as endangered. Based on a calculation of the combined total area of the shrubs that comprise coastal dune scrub habitat, the 1988 Draft HCP/EA concluded that the site contained 0.05 acres of remnant coastal dune scrub vegetation considered suitable habitat for the Morro shoulderband snail.

Based on the latest California Diversity database and other biological references, the following sensitive species were identified. Plant species are: Splitting yarn lichen (*Sulcaria isidiifera*), Jones's layia (*Layia jonesii*), San Luis Obispo monardella (*Monardella frutescens*), Morro manzanita (*Arctostaphylos morroensis*). Wildlife species are: Black legless lizard (*Anniella pulchra nigra*), Morro Bay kangaroo rat (*Dipodomys Heermanni Morroensis*), California reglegged frog. In April 1998, the Morro Group conducted a plant survey to determine whether any rare plant species were present on the site. No rare plants were found. Native plants and exotic species were observed, with lupine species being the dominant native species

In November 1997, the Morro Group conducted a survey to determine the presence of the Morro shoulderband snail on this site according to the U.S. Fish and Wildlife Service protocol at that time.

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No live Morro shoulderband snails were observed, but four empty shells were seen. Three of those shells were found along the southwestern fence line of the property in an area of substantial vegetation, according to the survey. In April 2000, the Morro Group conducted three surveys to determine the presence of the Morro shoulderband snail on this site according to the U.S. Fish and Wildlife Service protocol at that time. Three live Morro shoulderband snails were observed in remnant dune scrub vegetation in the northeastern corner of the site, and in a densely vegetated area in the southwestern corner of the site.

In November 2003, a Draft HCP/EA/Implementation Agreement (IA) prepared by the Morro Group for this site, together with another nearby site under the same ownership, was submitted to the U.S. Fish and Wildlife Service. That submittal included another vegetation survey that was conducted in July 2003. The survey showed that the total area covered by plants characteristic of coastal dune scrub communities had increased from 0.05 acres in 1998 to 0.42 acres in July 2003, most likely due to removal of horses, as well as fencing of coastal dune scrub vegetation. To this date, the U.S. Fish and Wildlife Service has not taken any action on the 2003 Draft HCP/EA/IA.

Since 2003, vegetation has been removed from the site, as reported by an area resident, and as stated in a letter dated November 2, 2004 from the U.S. Fish and Wildlife Service (attached). In that letter, the Service states that "take" of the Morro shoulderband snail has likely occurred as a result of the site disturbance, and that the agency's Division of Law Enforcement has opened an investigation into potential violations of the Endangered Species Act. The Service also stated that most, if not all of the vegetation on the property has been removed. That statement is confirmed by a recent biological evaluation dated December 8, 2004 (attached), which states that the entire property has weedy, ruderal annual grassland species, but no shrub species.

Impact.

The site has the soils that support coastal dune scrub vegetation, which supports endangered species. The federally endangered Morro shoulderband snail was present on the site in 2000, if not later. Removal of habitat for endangered species has occurred, and "take" has likely occurred, according to the U.S. Fish and Wildlife Service.

The site has potential to be restored as habitat for endangered species. If the site does not undergo further disturbance and additional "take" prior to development (which could be in several years) in accordance with Federal law, it is likely that habitat for endangered species will again begin to re-establish itself, as was documented between 1997 and 2003.

The proposed subdivision, development and grading for 40 homes, a park, detention basin, and streets would disturb the entire 9.1 acre-site, resulting in irreversible removal of potential habitat for endangered species, which would constitute a significant, adverse environmental impact. The exact extent of those impacts is uncertain. An EIR should be prepared to quantify those potential, significant adverse impacts.

Mitigation/Conclusion

The 2003 Draft HCP proposes primarily off-site mitigation for impacts to the Morro shoulderband snail. The proposed mitigation is to set aside and preserve about five acres of land owned by the applicant on the east side of South Bay Blvd., for a combined total of about 3.39 acres of suitable habitat that would be lost on this project, together with another proposed subdivision by the applicant (on the west side of Pecho Road, sometimes referred to as the "Holland Property"). The proposed set-aside would constitute a mitigation ratio of about 1.5 to 1. To this date, the U.S. Fish and Wildlife Service has not processed or commented on the Draft HCP. In a letter dated November 2, 2004 from the U.S. Fish and Wildlife Service (attached), the Service states that "Due to the ongoing investigation being conducted by our Division of Law Enforcement, it is inappropriate for us to provide comments regarding mitigation proposed for the subject property."

Independent experts have not confirmed the feasibility and effectiveness of proposed mitigation measures. For example, the feasibility of ownership, management and monitoring of the proposed mitigation site by the State Department of Parks and Recreation or other land manager, as proposed in the Draft HCP, has not been confirmed by the applicable manager. What agency or group will take ownership and responsibility for management? Is funding available for needed management activities such as removing non-native, invasive plants, controlling unauthorized use of the property, and restoring habitat when needed? The applicant does not propose to fund such activities, and the source of funding is unknown. In addition, uses of the site will need to be strictly limited, and a set of management and monitoring measures will need to be agreed to, funded and carried out. However, no evidence has been provided to ensure that those activities will actually occur. Those issues need to be further addressed in an EIR before it can be determined whether proposed mitigation is feasible and will be effective.

5. CULTURAL RESOURCES - *Will the project:*

	Potentially Significant	Impact can & will be mitigated	Insignificant Impact	Not Applicable
a) <i>Disturb pre-historic resources?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) <i>Disturb historic resources?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) <i>Disturb paleontological resources?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) <i>Other:</i> _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Setting. The project is located in an Archaeologically Sensitive Area combining designation in an area historically occupied by the Obispeno Chumash. A Phase I (surface) survey was conducted (Robert O. Gibson, August 23, 1985). Fragments of Pismo clam were found in the northeast portion of the site, but were assumed to be modern cultural materials and not archaeologically significant. No evidence of significant prehistoric or historic cultural materials was noted on the property. No historic structures are present and no paleontological resources are known to exist in the area.

Impact. A Phase I (surface) survey was conducted (Robert O. Gibson, August 23, 1985). No evidence of significant prehistoric or historic cultural materials was noted on the property. Impacts to historical or paleontological resources are not expected.

Mitigation/Conclusion. No significant cultural resource impacts are expected to occur, and no mitigation measures are necessary

6. GEOLOGY AND SOILS -
Will the project:

	Potentially Significant	Impact can & will be mitigated	Insignificant Impact	Not Applicable
a) <i>Result in exposure to or production of unstable earth conditions, such as landslides, earthquakes, liquefaction, ground failure, land subsidence or other similar hazards?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) <i>Be within a CA Dept. of Mines & Geology Earthquake Fault Zone (formerly Alquist-Priolo)?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) <i>Result in soil erosion, topographic changes, loss of topsoil or unstable soil conditions from project-related improvements, such as vegetation removal, grading, excavation, or fill?</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) <i>Change rates of soil absorption, or amount or direction of surface runoff?</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) <i>Include structures located on expansive soils?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f) <i>Change the drainage patterns where substantial on- or off-site sedimentation/ erosion or flooding may occur?</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g) <i>Involve activities within the 100-year flood zone?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) <i>Be inconsistent with the goals and policies of the County's Safety Element relating to Geologic and Seismic Hazards?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
i) <i>Preclude the future extraction of valuable mineral resources?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j) <i>Other: _____</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Setting. GEOLOGY - The topography of the project is gently sloping. Terraces have been created in the past for agricultural purposes. The area proposed for development is outside of the Geologic Study Area designation. The landslide risk potential is considered low. The liquefaction potential during a ground-shaking event is considered high. However, a soils engineering study prepared for this site (G&O Testing, 1996) concluded that there is a low potential for liquefaction. Active faulting is known to exist near the subject property, according to the Safety Element of the County General Plan. However, the site is outside of the 1,000-foot-wide zone on either side of the trace of the Los Osos fault, within which there is a higher potential for ground rupture during an earthquake. The project is not within a known area containing serpentine or ultramafic rock or soils.

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DRAINAGE – The area proposed for development is outside the 100-year Flood Hazard designation. The closest creek from the proposed development is approximately 3,400 feet to the southwest. As described in the NRCS Soil Survey, the soil is considered well drained. For areas where drainage is identified as a potential issue, the CZLUO (Sec. 23.05.042) includes a provision to prepare a drainage plan to minimize potential drainage impacts. When required, this plan needs to address measures such as: constructing on-site retention or detention basins, or installing surface water flow dissipaters. This plan also needs to show that the increased surface runoff would have no more impacts than that caused by historic flows. A drainage plan and report have been prepared for this project (Cannon Associates, November 1999). The report concludes that the proposed tract improvements, including streets, drainage swales and detention basins, will reduce existing runoff that drains towards Los Arboles Way (and the existing homes in the adjacent Vista de Oro subdivision) by 46 percent. In order to maintain such a reduction in runoff, drainage from the tier of lots on the north side of the proposed new street through the site ("A" Court) should be directed to the proposed detention basins rather than Los Arboles Way. In order to accomplish that, the proposed detention basins may need to be enlarged or deepened somewhat; however, there appears to be sufficient area for expansion on proposed Lot 42, the proposed park site. Runoff to Los Arboles Way may require concurrence by the Los Osos Community Services District. These issues should be further addressed in the Environmental Impact Report.

SEDIMENTATION AND EROSION - The soil types include: (inland) (% slope) (% slope)
(% slope) (coastal) (% slope) (% slope) (% slope)

As described in the NRCS Soil Survey, the soil surface is considered to have low erodibility, and low shrink-swell characteristics.

When highly erosive conditions exist, a sedimentation and erosion control plan is required (LUO Sec. 22.52.090) to minimize these impacts. When required, the plan is prepared by a civil engineer to address both temporary and long-term sedimentation and erosion impacts. Projects involving more than one acre of disturbance are subject to the preparation of a Storm Water Pollution Prevention Plan (SWPPP), which focuses on controlling storm water runoff. The Regional Water Quality Control Board is the local extension that monitors this program.

Impact. As proposed, the project will result in the disturbance of approximately 9.1 acres of land and grading of about 25,000 cubic yards of material, to be balanced on site. Runoff towards Los Arboles Way and the adjacent neighborhood will be reduced.

Mitigation/Conclusion. Drainage from the tier of lots on the north side of the proposed new street through the site ("A" Court) should be directed to the proposed detention basins rather than Los Arboles Way. While mitigation measures might be able to be identified at this time for drainage, the EIR should develop mitigation measures as needed after further evaluating the ability of the proposed detention basins to handle runoff, the ability of Pecho Valley Road and other streets to handle the runoff after it has been released from the detention basins, and the amount of runoff that Los Arboles Way can handle. Regarding geology and soils, there is no evidence that measures above what will already be required by ordinance or codes are needed.

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7. HAZARDS & HAZARDOUS MATERIALS - Will the project:	Potentially Significant	Impact can & will be mitigated	Insignificant Impact	Not Applicable
a) Result in a risk of explosion or release of hazardous substances (e.g. oil, pesticides, chemicals, radiation) or exposure of people to hazardous substances?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Interfere with an emergency response or evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Expose people to safety risk associated with airport flight pattern?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Increase fire hazard risk or expose people or structures to high fire hazard conditions?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Create any other health hazard or potential hazard?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f) Other: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Setting. The project is not located in an area of known hazardous material contamination. The project is within a high severity risk area for fire. The project is not within the Airport Review area.

Impact. The project does not propose the use of hazardous materials. The project does not present a significant fire safety risk if all fire safety rules and regulations are complied with. The project is not expected to conflict with any regional evacuation plan.

Mitigation/Conclusion. No impacts as a result of hazards or hazardous materials are anticipated, and no mitigation measures are necessary other than compliance with standard fire safety requirements regarding access roads, driveways, water supply, and fuel modification (see attached letter from CDF/County Fire dated January 25, 2005).

8. NOISE - Will the project:	Potentially Significant	Impact can & will be mitigated	Insignificant Impact	Not Applicable
a) Expose people to noise levels that exceed the County Noise Element thresholds?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Generate increases in the ambient noise levels for adjoining areas?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Expose people to severe noise or vibration?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Other: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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Setting. The site is approximately adjacent to Pecho Valley Road. The road and the two closest residential lots to the road--which are the lots subject to potential noise impacts--are roughly at the same elevation.

Impacts. As proposed, future residents of portions of the project site may be exposed to unacceptable levels of traffic-related noise, a potentially significant effect. Specifically, outdoor activity areas for Lots 38 and 39 could exceed the standards of the Noise Element.

A noise analysis was completed (Donald O. Asquith, PhD, December 9, 1999). It identified that the rear yards of Lots 38 and 39 could experience future noise levels ranging from approximately 57 dBA to about 65 dBA, exceeding the General Plan Noise Element noise standard of 60 dBA for outside activity areas. Noise levels could be reduced below the 60 dBA standard through use of a landscaped berm and decorative wall.

Mitigation. Use of a landscaped berm and decorative wall for Lots 38 and 39, as illustrated in the noise analysis, would mitigate potential noise impacts to a less than significant level, and should be included in the EIR.

9. POPULATION/HOUSING - <i>Will the project:</i>	Potentially Significant	Impact can & will be mitigated	Insignificant Impact	Not Applicable
a) <i>Induce substantial growth in an area either directly or indirectly (e.g., through projects in an undeveloped area or extension of major infrastructure)?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) <i>Displace existing housing or people, requiring construction of replacement housing elsewhere?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) <i>Create the need for substantial new housing in the area?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) <i>Use substantial amount of fuel or energy?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) <i>Other:</i> _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Setting. In its efforts to provide for affordable housing, the county currently administers a Community Development Block Grant Program, which provides grants to projects relating to affordable housing throughout the county.

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Title 18 of the County Code (Public Facilities Fees) requires that an affordable housing mitigation fee be imposed as a condition of approval of any new residential development project. Title 23 of the County Code (Coastal Zone Land Use Ordinance) requires that new housing projects of 11 more dwellings or parcels, created by a single developer, provide 15 percent of the units as affordable housing for persons of low or moderate incomes.

Impact. The project will not result in a need for a significant amount of new housing, and will not displace existing housing.

Mitigation/Conclusion. No significant population and housing impacts are anticipated, and no mitigation measures are necessary.

Prior to map recordation, the applicant will pay an affordable housing mitigation fee of 3.5 percent of the adopted Public Facility Fee. This fee will not apply to any county-recognized affordable housing included within the project.

10. PUBLIC SERVICES/UTILITIES - <i>Will the project have an effect upon, or result in the need for new or altered public services in any of the following areas:</i>	Potentially Significant	Impact can & will be mitigated	Insignificant Impact	Not Applicable
a) <i>Fire protection?</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) <i>Police protection (e.g., Sheriff, CHP)?</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) <i>Schools?</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) <i>Roads?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) <i>Solid Wastes?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f) <i>Other public facilities?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g) <i>Other:</i> _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Setting. The project area is served by the County Sheriff's Department and CDF/County Fire as the primary emergency responders. The closest CDF fire station is approximately 1.5 miles to the east. The closest Sheriff substation is in Los Osos, approximately 1.5 miles from the proposed project. The project is located in the San Luis Coastal Unified School District.

Impact. The project direct and cumulative impacts are within the general assumptions of allowed use for the subject property that was used to estimate the fees in place.

Mitigation/Conclusion. Public facility (county) and school (State Government Code 65995 et seq) fee programs have been adopted to address the project's direct and cumulative impacts, and will reduce the impacts to less than significant levels.

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11. RECREATION - <i>Will the project:</i>	Potentially Significant	Impact can & will be mitigated	Insignificant Impact	Not Applicable
a) <i>Increase the use or demand for parks or other recreation opportunities?</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) <i>Affect the access to trails, parks or other recreation opportunities?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) <i>Other</i> _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Setting. The County Trails Plan shows that a potential trail does not go through the proposed project. The project is proposed in a location that will affect planned trails to the east and west, but will not affect park or other recreational resources. An approximately 10,500 square-foot park, as well as detention basins that have potential for recreational use, are proposed as part of the project.

Prior to map recordation, county ordinance requires the payment of a fee (Quimby) for the improvement or development of neighborhood or community parks.

Impact. The proposed project will not create a significant need for additional park or recreational resources. The project will be required to provide a trail corridor along the southerly property boundary to connect with a planned trail within Tract 2161 to the east, and to ultimately connect with a planned trail to the west (see attached February 10, 2005 memo from County Department of General Services, Parks Division).

Mitigation/Conclusion. The "Quimby" fee will adequately mitigate the project's impact on recreational facilities. No significant recreation impacts are anticipated, and no mitigation measures are necessary.

12. TRANSPORTATION/ CIRCULATION - <i>Will the project:</i>	Potentially Significant	Impact can & will be mitigated	Insignificant Impact	Not Applicable
a) <i>Increase vehicle trips to local or areawide circulation system?</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) <i>Reduce existing "Levels of Service" on public roadway(s)?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) <i>Create unsafe conditions on public roadways (e.g., limited access, design features, sight distance, slow vehicles)?</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) <i>Provide for adequate emergency access?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) <i>Result in inadequate parking capacity?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f) <i>Result in inadequate internal traffic circulation?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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12. TRANSPORTATION/ CIRCULATION - *Will the project:*

	Potentially Significant	Impact can & will be mitigated	Insignificant Impact	Not Applicable
g) <i>Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., pedestrian access, bus turnouts, bicycle racks, etc.)?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h) <i>Result in a change in air traffic patterns that may result in substantial safety risks?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) <i>Other:</i> _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Setting. Future development will obtain primary access onto Pecho Valley Road, a public, arterial road at this location. The identified roadway is operating at acceptable levels. Secondary access is proposed via a connection to Los Arboles Way, a public, local road that serves the adjacent Vista de Oro neighborhood. All the streets in that neighborhood also take access from Pecho Valley Road. Referrals were sent to County Public Works. No significant traffic-related concerns were identified. However, the Final EIR for the Estero Area Plan Update (December 2003) indicates that the segment of Los Osos Valley Road between Pine Avenue and 9th Street, which project traffic will use, is currently operating at an unacceptable level of service.

Impact. The proposed project is estimated to generate about 383 trips per day, based on the Institute of Traffic Engineer's Manual rate of 9.57 average trips/unit. This small amount of additional traffic should not result in a significant change to the existing road service levels or traffic safety. However, potential traffic impacts on Los Arboles Way and Montana Way, both local streets, are unknown, and should be evaluated in the EIR. A left turn lane will be needed on Pecho Valley Road, according to the Public Works Department. At buildout under the proposed update of the Estero Area Plan, with planned roadway improvements and signalization of certain intersections, Los Osos Valley Road would operate at an acceptable level of service, according to the Final EIR for the area plan update.

The current Circulation Element for the Estero Planning Area shows Highland Drive being extended through this site to connect with Pecho Valley Road. Tract 2261 to the east was recorded with an offer of dedication that would enable the extension of Highland Drive. However, the proposed Estero Area Plan Update deletes that planned extension. A potential street connection between this site and Madera Avenue may facilitate a secondary access for the Cabrillo Estates neighborhood.

Mitigation/Conclusion. Potential traffic impacts on Los Arboles Way and Montana Way should be evaluated in the EIR. A left turn lane will be needed on Pecho Valley Road. The EIR should also evaluate whether other mitigation measures are necessary for traffic access, safety and neighborhood circulation, including street connections to surrounding neighborhoods for secondary access.

13. WASTEWATER - *Will the project:*

	Potentially Significant	Impact can & will be mitigated	Insignificant Impact	Not Applicable
a) <i>Violate waste discharge requirements or Central Coast Basin Plan criteria for wastewater systems?</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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13. WASTEWATER - Will the project:	Potentially Significant	Impact can & will be mitigated	Insignificant Impact	Not Applicable
b) <i>Change the quality of surface or ground water (e.g., nitrogen-loading, daylighting)?</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) <i>Adversely affect community wastewater service provider?</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) <i>Other:</i> _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Setting. The project will generate approximately 8,400 gallons per day of effluent. The project description includes connection to the previously planned and approved Los Osos Community Services District (LOCSO) sewer system to handle wastewater effluent, and is within the service area for that sewer system. The capacity of that sewer system was designed to accommodate effluent from this site. However, that formerly planned wastewater project is no longer being pursued by LOCSO, and the future of a wastewater system for the community is uncertain at this time. The LOCSO has not issued a will-serve letter that states that a wastewater system can accept and process the wastewater proposed from the project

Referrals/Impact. The Environmental Health Division reviewed the proposed project and noted that the proposed parcels would be too small for on-site septic systems, and would not be consistent with the Basin Plan. In this case, the project description is to connect to the *previously* planned LOCSO sewer system, and a condition of approval of the project would prevent the subdivision map from being recorded, and development from proceeding unless and until a final will-serve letter is received for connection to a LOCSO sewer system. However, construction of a community sewer system is now uncertain, and may no longer be a reasonably foreseeable project. Therefore, a potential impact regarding wastewater may result.

Mitigation/Conclusion. The EIR should evaluate potential wastewater impacts, recommend possible mitigation measures, and evaluate possible alternative methods of wastewater disposal.

14. WATER - Will the project:	Potentially Significant	Impact can & will be mitigated	Insignificant Impact	Not Applicable
a) <i>Violate any water quality standards?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) <i>Discharge into surface waters or otherwise alter surface water quality (e.g., turbidity, temperature, dissolved oxygen, etc.)?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) <i>Change the quality of groundwater (e.g., saltwater intrusion, nitrogen-loading, etc.)?</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) <i>Change the quantity or movement of available surface or ground water?</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) <i>Adversely affect community water service provider?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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14. WATER - *Will the project:*

Potentially
Significant

Impact can
& will be
mitigated

Insignificant
Impact

Not
Applicable

f) Other: *cumulative water supply and quantity*



Water Usage and Quality - Setting. Water is to be provided by a community system. Cal Cities Water, the water purveyor for this part of Los Osos, has issued a "will-serve" letter dated March 8, 2005. The water source is the Los Osos groundwater basin.

The Estero Area Plan, adopted in 1988, identified a possible Level of Severity II for water supply in Los Osos because water consumption was approaching the estimated safe yield of the Los Osos Valley groundwater basin. The Plan also established "interim service capacity allocation" planning area standards for water use that are to remain in effect until a resource capacity study provides more current information regarding the basin's safe yield.

Since adoption of the Estero Area Plan, studies by The State Department of Water Resources (DWR) and the U.S. Geological Survey (USGS) have suggested that excessive pumping from portions of the basin adjacent to Morro Bay could be causing seawater intrusion.

The Los Osos Community Services District (LOCSO) *Water Management Plan*, completed in July 2005, provides an estimate of safe yield for the lower and upper aquifers - 1300 afy for the lower aquifer and 1150 afy for the upper aquifer. An additional 800 afy is available from the Los Osos Creek Valley, for a total basin safe yield of 3250 afy. Total basin demand is currently estimated at approximately 3,400 afy. Therefore, the groundwater basin is currently in overdraft, as the demand exceeds safe yield by approximately 150 afy. Safe yield in the lower aquifer is currently being exceeded by 650 afy, causing seawater intrusion in the lower aquifer.

The Management Plan also estimates the water demand at buildout under the proposed Estero Area Plan update for the combined service areas of the community's three principal water purveyors, compared to the estimated safe yield of the groundwater basin. Buildout demand is estimated to be 3,000 afy for the three purveyors compared to a safe yield of only 2250 afy without a wastewater system or 2630 afy with the previously planned wastewater system. Thus, in the absence of a wastewater system, buildout demand would exceed the safe yield by 750 afy. Assuming construction of the previously planned wastewater system (which is no longer proposed by the LOCSO), buildout demand would exceed the safe yield by 370 afy. This deficit would have to be made up by a combination of water conservation, wastewater reclamation and supplemental water. However, in the supply/demand comparison, agricultural demand and private domestic demand are held constant. These components of demand should be closely monitored to ensure that the expectation of the amount of water available for urban use remains realistic.

Based on the findings of current overdraft and seawater intrusion, The *Annual Resource Summary Report, 2005*, recommends a Level of Severity III for the Los Osos Valley groundwater basin. In December 2005, the Board of Supervisors directed staff to work with the Los Osos water purveyors to compile the necessary information to prepare a resource capacity study on water supply in the Los Osos Valley groundwater basin.

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Impacts. The project proposes to connect to the Cal Cities community water system, the source of which is the Los Osos groundwater basin. As proposed, the project will potentially result in 40 new single-family dwellings on 40 residential parcels (no secondary dwellings), plus a small park site that could be irrigated. As shown below, a reasonable “worst case” indoor water usage would likely be about 34 acre-feet/year (afy), determined as follows:

40 residential lots x 0.85 afy/lot = 34 afy

Source: “City of Santa Barbara Water Demand Factor & Conservation Study ‘User Guide’” (Aug., 1989)

A substantial portion of indoor water is usually recharged back into the water table through the wastewater system. Concentrated areas of recharge, such as community systems or large detention basins can increase the amount recharged back into the groundwater basin

This estimate does not include water required for landscaping, which would be an additional unknown amount. Approximately 90% of landscape water is typically lost through evapo-transpiration, with about 10% recharged back into the groundwater table.

Cal Cities Water will serve the proposed project. However, the groundwater basin is currently in overdraft. In addition, although the estimated safe yield of the groundwater basin, with operation of the formerly planned LOCSD wastewater project, is sufficient to accommodate this proposed development, that formerly planned wastewater project is no longer being pursued by LOCSD, and the future of a wastewater system for the community is uncertain at this time. Moreover, if a new wastewater project were proposed in the future, the groundwater recharge assumptions used to calculate the basin’s safe yield in the LOCSD *Water Management Plan*, which were based on the *previously* planned wastewater project increasing safe yield, would not necessarily apply to a future, new wastewater project. Therefore, although connection to the LOCSD wastewater system is part of the project description for this tract, the future of a wastewater system for the community is uncertain, the type of system is unknown, and the affect on the safe yield of the groundwater basin, if any, is also unknown. Due to the existing overdraft of the groundwater basin and saltwater intrusion, together with uncertainty over future construction of a sewer system and how it might affect the safe yield of the basin, this project could result in potential significant impacts on water supply and water quality. In addition, this project, when considered together with future development that could occur under the Estero Area Plan, may result in significant cumulative impacts on water supply and quality for the following reasons: 1) the latest safe yield estimates for the groundwater basin show that the safe yield is not sufficient to accommodate buildout under the Board of Supervisors-approved Estero update, even with operation of the *formerly* planned community wastewater project; 2) wastewater reuse and conservation programs would help reduce the gap between safe yield and demand, but implementation of such programs can not be assured; 3) some amount of supplemental water will be needed, but there are currently no plans to obtain such water. Therefore, potential water supply and quality impacts, as well as cumulative impacts, are potentially significant and will need to be addressed in the EIR.

The applicant’s representative has testified that the site has been cultivated in the past, and an on-site well has historically used 27 acre-feet of water per year. Aerial photographs dating from 1972, 1988 and 1991 show clear evidence of cultivation; 1995 and 2002 aerial photographs are less clear in that regard. No substantial irrigation has occurred recently, although in the past month, area residents have reported plans for an irrigated blueberry patch on the site. The applicant has also stated his intention to abandon use of the existing well as a condition of approval of the proposed project, thereby helping to reduce saltwater intrusion in this western portion of the groundwater basin.

No documentation has been submitted to verify the amount of historic irrigation on the site and whether that irrigation occurred on a continual or an intermittent basis. Furthermore, even if it were verified that there was a continual, historic use of 27 acre-feet of water per year, that amount may be less than the amount of water use by the proposed project, considering domestic use and irrigation of yards and the proposed park site. The EIR should further evaluate how historic water use compares to proposed water use, and how abandonment of the existing well would affect saltwater intrusion.

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Mitigation/Conclusion. The EIR will need to address potential water supply and quality impacts, as well as potential cumulative impacts, and recommend feasible mitigation measures.

15. LAND USE - Will the project:	Inconsistent	Potentially Inconsistent	Consistent	Not Applicable
a) <i>Be potentially inconsistent with land use, policy/regulation (e.g., general plan [county land use element and ordinance], local coastal plan, specific plan, Clean Air Plan, etc.) adopted to avoid or mitigate for environmental effects?</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) <i>Be potentially inconsistent with any habitat or community conservation plan?</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) <i>Be potentially inconsistent with adopted agency environmental plans or policies with jurisdiction over the project?</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) <i>Be potentially incompatible with surrounding land uses?</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) <i>Other:</i> _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Setting/Impact. Surrounding uses are identified on Page 2 of the Initial Study. The proposed project was reviewed for consistency with policy and/or regulatory documents relating to the environment and appropriate land use (e.g., County Land Use Ordinance, Local Coastal Plan, etc.). Referrals were sent to outside agencies to review for policy consistencies (e.g., CDF for Fire Code, APCD for Clean Air Plan, etc.). A potential inconsistency was identified with regard to transportation/circulation, because the tentative map, as submitted, does not enable a future extension of Highland Drive through this site to connect with Pecho Valley Road, as called for in the current Estero Area Plan. However, the area plan update, which is not yet in effect, deletes that proposal (refer to discussion under preceding Item 12, Transportation/Circulation). There is also some uncertainty about whether the proposed project is consistent with the Estero Area Plan standards for "interim service capacity allocation" that apply to proposed land division and Development Plan applications in Los Osos. Because there is uncertainty about the future water supply (see preceding Item 14, Water), it is uncertain if the safe yield of the groundwater basin can accommodate higher priority uses such as agriculture and infill development on existing lots, as well as the proposed land division. In other respects, the project was found to be consistent with policy and/or regulatory documents relating to the environment and land use (refer also to Exhibit A on reference documents used).

The project is within the boundary of the draft Los Osos Habitat Conservation Plan. The proposed project is not consistent with the future development scenario for this site that is assumed in the draft Habitat Conservation Plan (the Habitat Conservation Plan assumes about 50 percent open space for

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habitat protection, compared to little or none in the proposed project). However, the Los Osos Habitat Conservation Plan is not yet in effect. In order to satisfy the requirements of the Endangered Species Act, the applicants have submitted to the U.S. Fish and Wildlife Service an individual HCP for this site, but that HCP has not been approved.

The project could be incompatible with the surrounding uses (summarized on page 2 of this Initial Study) if large, two-story houses on the proposed lots on the north side of proposed road through the subdivision are visually obtrusive to residents below and adversely affect privacy (see the discussion under preceding Item 1, Aesthetics). Measures to avoid such impacts include limiting the height of structures on certain lots. This issue should be addressed in the EIR through a visual analysis and recommended mitigation measures as applicable.

Mitigation/Conclusion. The EIR should further address potential land use inconsistencies with regard to transportation/circulation, water use, and neighborhood compatibility/privacy concerns, as previously discussed. Potential inconsistencies with the Endangered Species Act should be addressed in the EIR as part of the discussion of biological resources.

16. MANDATORY FINDINGS OF SIGNIFICANCE - *Will the project:*

Potentially Significant Impact can & will be mitigated Insignificant Impact Not Applicable

- a) *Have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?* ☒ ☐ ☐ ☐
- b) *Have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)* ☒ ☐ ☐ ☐
- c) *Have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?* ☐ ☒ ☐ ☐

For further information on CEQA or the county's environmental review process, please visit the County's web site at "www.sloplanning.org" under "Environmental Review", or the California Environmental Resources Evaluation System at "http://ceres.ca.gov/topic/env_law/ ceqa/ guidelines/" for information about the California Environmental Quality Act.

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Exhibit A - Initial Study References and Agency Contacts

The County Planning or Environmental Division have contacted various agencies for their comments on the proposed project. With respect to the subject application, the following have been contacted (marked with an ☒) and when a response was made, it is either attached or in the application file:

<u>Contacted</u>	<u>Agency</u>	<u>Response</u>
<input checked="" type="checkbox"/>	County Public Works Department	Attached
<input checked="" type="checkbox"/>	County Environmental Health Division	Attached
<input type="checkbox"/>	County Agricultural Commissioner's Office	Not Applicable
<input type="checkbox"/>	County Airport Manager	Not Applicable
<input type="checkbox"/>	Airport Land Use Commission	Not Applicable
<input checked="" type="checkbox"/>	Air Pollution Control District	Attached
<input type="checkbox"/>	County Sheriff's Department	Not Applicable
<input checked="" type="checkbox"/>	Regional Water Quality Control Board	In File**
<input checked="" type="checkbox"/>	CA Coastal Commission	None
<input checked="" type="checkbox"/>	CA Department of Fish and Game	None
<input checked="" type="checkbox"/>	CA Department of Forestry	Attached
<input type="checkbox"/>	CA Department of Transportation	Not Applicable
<input type="checkbox"/>	Community Service District	Not Applicable
<input checked="" type="checkbox"/>	Other <u>County General Services - Parks</u>	Attached
<input checked="" type="checkbox"/>	Other <u>U.S. Fish and Wildlife Service</u>	Attached

**** "No comment" or "No concerns"-type responses are usually not attached**

The following checked ("☒") reference materials have been used in the environmental review for the proposed project and are hereby incorporated by reference into the Initial Study. The following information is available at the County Planning and Building Department.

<input checked="" type="checkbox"/> Project File for the Subject Application	<input checked="" type="checkbox"/> Estero Area Plan and Update EIR
<u>County documents</u>	<input checked="" type="checkbox"/> Los Osos Circulation Study
<input type="checkbox"/> Airport Land Use Plans	<u>Other documents</u>
<input checked="" type="checkbox"/> Annual Resource Summary Report	<input checked="" type="checkbox"/> Archaeological Resources Map
<input type="checkbox"/> Building and Construction Ordinance	<input checked="" type="checkbox"/> Area of Critical Concerns Map
<input checked="" type="checkbox"/> Coastal Policies	<input checked="" type="checkbox"/> Areas of Special Biological Importance Map
<input checked="" type="checkbox"/> Framework for Planning (Coastal & Inland)	<input checked="" type="checkbox"/> California Natural Species Diversity Database
<input checked="" type="checkbox"/> General Plan (Inland & Coastal), including all maps & elements; more pertinent elements considered include:	<input checked="" type="checkbox"/> Clean Air Plan
<input type="checkbox"/> Agriculture & Open Space Element	<input checked="" type="checkbox"/> Fire Hazard Severity Map
<input checked="" type="checkbox"/> Energy Element	<input checked="" type="checkbox"/> Flood Hazard Maps
<input checked="" type="checkbox"/> Environment Plan (Conservation, Historic and Esthetic Elements)	<input checked="" type="checkbox"/> Natural Resources Conservation Service Soil Survey for SLO County
<input checked="" type="checkbox"/> Housing Element	<input checked="" type="checkbox"/> Regional Transportation Plan
<input checked="" type="checkbox"/> Noise Element	<input checked="" type="checkbox"/> Uniform Fire Code
<input type="checkbox"/> Parks & Recreation Element	<input checked="" type="checkbox"/> Water Quality Control Plan (Central Coast Basin – Region 3)
<input checked="" type="checkbox"/> Safety Element	<input checked="" type="checkbox"/> GIS mapping layers (e.g., habitat, streams, contours, etc.)
<input checked="" type="checkbox"/> Land Use Ordinance	<input checked="" type="checkbox"/> Other <u>see next page</u>
<input checked="" type="checkbox"/> Real Property Division Ordinance	
<input checked="" type="checkbox"/> Trails Plan	
<input type="checkbox"/> Solid Waste Management Plan	

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☒ Other documents

Los Osos Community Services District Water Master Plan, August 2002, John L. Wallace & Associates in association with Cleath & Associates

Draft Water Management Plan for the Los Osos Valley Ground Water Basin, May 2005, Cleath & Associates

Los Osos Community Services District Water Management Plan, July 2005,

In addition, the following project specific information and/or reference materials have been considered as a part of the Initial Study:

Results of Archaeological Surface Survey on a 9.1-Acre Parcel (APN 74-025-10), Los Osos, CA, Robert O. Gibson, August 23, 1985

Soil Engineering Study, The Farm Residential Subdivision, Pecho Road, Los Osos, California, G & O Testing, December 1996

Drainage Report for Tentative Tract 2251, County of San Luis Obispo, California, Cannon Associates, November 1999

Noise Investigation, Tentative Tract 2251 (The Farm), Pecho Valley Road, Los Osos, Donald O. Asquith, PhD, December 9, 1999

Draft Habitat Conservation Plan/Environmental Assessment For the Issuance of an Incidental Take Permit Under Section 10(a)(1)(B) of the Endangered Species Act for "The Farm" Subdivision Project, Los Osos, San Luis Obispo County, California, Anastasi Construction Co., Inc., with assistance from the Morro Group, June 1998

Sensitive Plant Survey for "The Farm" Project Site, Morro Group, Inc. April 27, 1998

Draft Habitat Conservation Plan/Draft Environmental Assessment/Draft Implementation Agreement (IA), Morro Group, November 6, 2003

Evaluation of Existing conditions of Botanical Resources for "The Farm" Property, APN 074-025-010, Los Osos, San Luis Obispo County, California, David Wolff Environmental, December 8, 2004

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SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP
DIRECTOR

THIS IS A NEW PROJECT REFERRAL

DATE:

12/21/04
pw

FROM

FROM
TO

Mike Wulkan
(Please direct response to the above)

D990109D
TR 2251

Project Name and Number

Development Review Section (Phone:

788-2009)

*OR ASK THE SWITCH-
(BOARD FOR THE PLANNER)

PROJECT DESCRIPTION:

TR. MAP. See planner letter.

Return this letter with your comments attached no later than:

1-16-05

PART I

IS THE ATTACHED INFORMATION ADEQUATE FOR YOU TO DO YOUR REVIEW?

☒ YES
☐ NO

(Please go on to Part II)

(Call me ASAP to discuss what else you need. We have only 30 days in which we must accept the project as complete or request additional information.)

PART II

ARE THERE SIGNIFICANT CONCERNS, PROBLEMS OR IMPACTS IN YOUR AREA OF REVIEW?

☒ NO
☐ YES

(Please go on to Part III)

(Please describe impacts, along with recommended mitigation measures to reduce the impacts to less-than-significant levels, and attach to this letter.)

PART III

INDICATE YOUR RECOMMENDATION FOR FINAL ACTION. Please attach any conditions of approval you recommend to be incorporated into the project's approval, or state reasons for recommending denial. IF YOU HAVE "NO COMMENT," PLEASE INDICATE OR CALL.

LOT LINE ADJUSTMENT REVIEWED TENTATIVE APPROVAL AND HAS BEEN MAP CHECKED ONCE (LAST SUMMER).
LLA NEEDS TO BE COMPLETED BEFORE THE TRACT MAP IS FINISHED. NEED LEFT
TURN LANE ON Pecho Valley Rd. ATTACHED ARE REVISED STAKE CONDITIONS. HOW CAN
REVIEW PROCEED w/o SEWER DISCHARGE DETAILS. LOCSD - NO ONE HAS STARTED HABITAT CONSERVATION PLAN
OR Groundwater study BOTH of which are required before Bldg Permits. HIGHLAND DR EXTENSION
20 JAN 2005
Date
Goodwin
Name
5252
Phone
THIS IS A
PROBLEM
GRADING
PLAN - IS
THERE A

REVISED 19 JAN 2005

EXHIBIT B

CONDITIONS OF APPROVAL FOR TRACT 2251, ANASTASI

Approved Project

This approval authorizes the division of a _____ acre parcel into _____ parcels of _____ **acres / square feet** each.

Access and Improvements



Roads and/or streets to be constructed to the following standards:

a. ON-SITE streets including "A" COURT, LOS ARBOLES and unnamed street constructed to a A-2 section within a 50 foot dedicated right-of-way.

b. PECHO VALLEY ROAD widened to complete a A-2 section fronting the property including a left TURN LANE.

c. _____ constructed to a _____ section from the property to _____ (minimum paved width to be _____ feet).



The applicant offer for dedication to the public by certificate on the map or by separate document:

a. For future road improvement _____ feet along _____ to be described as _____ feet from the recorded centerline.

b. For future road improvement _____ feet along _____ to be described as _____.

c. For road widening purposes 30 feet along PECHO VALLEY RD, to be described as 50 feet from the recorded centerline.

d. The _____ foot road easement as shown on the tentative parcel map with a _____ foot radius property line return at the intersection of _____.

e. A 20 foot radius property line return at the intersection of ALL streets.

f. The 50 foot road easement terminating in a county cul-de-sac as shown on the tentative map.

- ☐ The intersection of _____ and _____ be designed in accordance with California Highway Design Manual.
- ☒ Access be denied to lots 38 & 39 from Pecho Valley Rd and that this be by certificate and designation on the map.
- ☐ The future alignment of _____ shall be shown on the map as reserved for future public right-of-way.
- ☐ A private easement be reserved on the map for access to lots _____.
- ☐ A practical plan and profile for access to lots _____ be submitted to the Department of Public Works and the Department of Planning and Building for approval.
- ☒ All grading shall be done in accordance with Appendix 33 of the Uniform Building Code. All lot lines shall be considered as Site Area Boundaries with slopes setback accordingly.

Improvement Plans

- ☒ Improvement plans shall be prepared in accordance with San Luis Obispo County Improvement Standards and Specifications by a Registered Civil Engineer and submitted to the Department of Public Works and the county Health Department for approval. The plan is to include:
 - a. Street plan and profile.
 - b. Drainage ditches, culverts, and other structures (if drainage calculations require).
 - c. Water plan (County Health).
 - d. Sewer plan (County Health).
 - e. Grading and erosion control plan for subdivision related improvement locations.
 - f. Public utility plan, showing all existing utilities and installation of all utilities to serve every lot.
 - g. Tree removal/retention plan for trees to be removed and retained associated with the required improvement for the land division to be approved jointly with the Department of Planning and Building.
 - h. Trail plan, to be approved jointly with the Park Division.
- ☒ The applicant shall enter into an agreement with the county for the cost of checking the map, the improvement plans if any, and the cost of inspection of any such improvements by the county or its designated representative. The applicant shall also provide the county with an Engineer of Work Agreement retaining a Registered Civil Engineer to furnish construction phase services, Record Drawings and to certify the final product to the Department of Public Works.
- ☒ The Registered Civil Engineer, upon completion of the improvements, must certify to the Department of Public Works that the improvements are made in accordance with all conditions of approval, including any related land use permit conditions and the approved improvement plans. All public improvements shall be completed prior to occupancy of any new structure.
- ☒ If environmental permits from the Army Corps of Engineers or the California Department of Fish and Game are required for any public improvements that are to be maintained by the County, the applicant or his engineer, prior to the approval of the plans by the Department of Public Works shall:
 - a. Submit a copy of all such permits to the Department of Public Works OR
 - b. Document that the regulatory agencies have determined that said permit is not longer required.

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Drainage

- ☐ _____ is not capable of carrying additional runoff. Construct off-site drainage facilities for an adequate outlet, or provide evidence of adequate drainage easements.
- ☐ The existing drainage swale(s) to be contained in drainage easement(s) dedicated on the map.
- ☒ Submit complete drainage calculations to the Department of Public Works for review and approval.
- ☒ If calculations so indicate, drainage must be **retained/detained** in a drainage basin on the property. The design of the basin to be approved by the Department of Public Works, in accordance with county standards.
- ☒ If a drainage basin is required, the drainage basin along with rights of ingress and egress be:
 - a. granted to the public in fee free of any encumbrance.
 - ☒ b. offered for dedication to the public by certificate on the map with an additional easement reserved in favor of the owners and assigns.
 - c. reserved as a drainage easement in favor of the owners and assigns.
- ☐ If a drainage basin is required, a zone of benefit be formed within _____ for maintenance of the drainage basin. Application to be filed with the The Department of Public Works Administrator.
- ☐ If a drainage basin is required, this development be annexed to _____ for maintenance of the drainage basin. Evidence of acceptance to be filed with the Department of Public Works.
- ☒ The project shall comply with the requirements of the National Pollutant Discharge Elimination System Phase I and/or Phase II storm water program.

Wastewater Disposal

- ☐ Prior to the filing of the final parcel or tract map, the applicant shall submit to and be jointly approved by the county Department of Planning and Building and Health Department, results of percolation tests and the log or logs of soil borings performed by a registered civil engineer. For this purpose, the applicant shall perform one or more soil borings to be a minimum depth of ten (10) feet in the area of the appropriate area of the proposed sewage disposal system to determine the: a) subsurface soil conditions, (example: impermeable strata which act as barriers to the effective percolation of sewage); b) presence of groundwater; c) separation between sewage disposal saturation areas and groundwater; d) borings shall be as deep as necessary below the proposed on-site disposal area to assure required separation. The applicant must perform a minimum of three (3) percolation test holes, to be spaced uniformly in the area of the proposed sewage disposal system. (Parcel(s) _____, only).
- ☐ A community septic system shall be installed with a centralized leaching area and shall have a 100% or greater additional expansion area. The area for the community septic tank system and disposal area shall **be granted in fee on the map to the appropriate maintenance agency for maintenance with the right of ingress and egress / shall be kept as open space within easement for sewage treatment purposes granted to a homeowner's association.** Impervious paving over a disposal area is not considered acceptable.

- ☐ A long term community septic tank and disposal area maintenance plan be submitted to the the Department of Public Works and Health Department and the Regional Water Quality Control Board for review prior to the filing of the final parcel or tract map.
- ☐ The community sewage system shall be designed by a Registered Civil Engineer and operated in accordance with county, state, federal and maintenance entity laws, standards and requirements. A waste discharge permit, if required, shall be issued by the Central Coast State Regional Water Quality Control Board prior to the filing of the final parcel or tract map.
- ☐ This land division shall be annexed to _____ prior to the filing of the final parcel or tract map for **water service/water and sewer service/sewer maintenance/community septic system maintenance/**_____.

Soils Report

- ☐ A final soils report by a Registered Civil Engineer be submitted for review prior to the final inspection of the improvements.
- ☐ Three (3) copies of a Preliminary Soils Report prepared by a Registered Civil Engineer in accordance with Sections 17953, 17954, 17955 of the California Health and Safety Code shall be submitted to the Public Works, Health and Planning and Building Departments prior to the filing of the final parcel or tract map. The date and person who prepared the report are to be noted on the map.

Utilities

- ☒ Electric and telephone lines shall be installed ~~overhead~~ **underground**.
- ☒ Cable T.V. conduits shall be installed in the street.
- ☒ Gas lines shall be installed.
- ☐ A _____ feet public utility easement on private property along _____, plus those additional easements required by the utility company, be shown on the final parcel or tract map.

Design

- ☐ The lots shall be numbered in sequence.
- ☐ The _____ on lot _____ be removed or brought into conformance with the **Land Use Ordinance / Coastal Zone Land Use Ordinance** prior to filing the final parcel or tract map. A demolition permit may be required.
- ☐ The lot area of _____ shall contain a minimum area of _____ exclusive of area shown for rights of way and any easement that limits the surface use for building construction (Section 22/23.04.021).

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The applicant shall apply to the Department of Planning and Building for approval of new street names prior to the filing of the final parcel or tract map. Approved street names shall be shown on the final parcel or tract map *and on the improvement plans.*

Vector Control and Solid Waste

- ☐ A determination of method of pick-up shall be specified by the waste handler and if centralized facilities for the pick-up are required, provisions shall be made within the project for central facilities that meet **Land Use Ordinance / Coastal Zone Land Use Ordinance** requirements for trash enclosures. If centralized facilities are established, this shall include provisions for recycling if service is available or subsequent installation of such facilities if recycling service becomes available in the future.

Fire Protection

- ☐ Provide minimum fire flow of _____ gallons per minute as per nationally recognized standard. Fire flows to be maintained for a minimum two-hour duration.
- ☐ The applicant shall obtain a fire safety clearance letter from the California Department of Forestry (CDF)/County Fire Department establishing fire safety requirements prior to filing the final parcel or tract map.
- ☐ Designate a fire lane within all the driveway areas. This lane to be minimum width of twenty (20) feet. *(USE FOR MULTI-FAMILY/COMMERCIAL PROJECTS ONLY)*

Parks and Recreation (Quimby) Fees

- ☐ Unless exempted by Chapter 21.09 of the county Real Property Division Ordinance or California Government Code section 66477, prior to filing of the final parcel or tract map, the applicant shall pay the in-lieu" fee that will be used for community park and recreational purposes as required by Chapter 21.09. The fee shall be based on the total **number of new parcels or remainder parcels shown on the map that do not already have legal residential units on them / or the number of dwelling units proposed in the case of a condominium, stock cooperative, or community apartment project.**
- ☐ For subdivisions of less than five parcels that are not to be used for residential purposes, if a building permit is requested for construction of a residential structure or structures on one or more of the parcels created by this subdivision within four years of recordation of the map, the Quimby Ordinance fee specified in the county fee schedule shall be paid by the owner of each parcel as a condition for the issuance of such permit.

Affordable Housing Fee

- ☐ Prior to filing the final parcel or tract map, the applicant shall pay an affordable housing in-lieu fee of 3.5 percent of the adopted public facility fee effective at the time of recording for each residential lot. This fee shall not be applicable to any official recognized affordable housing included within the residential project.

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Easements

- ☐ The property owner shall grant an avigation easement to the county of San Luis Obispo. The avigation easement document shall be prepared, reviewed and approved by County Counsel prior to filing of the final parcel or tract map.
- ☐ An open space easement be recorded for the open space parcel(s). It is to be held ***in single ownership / in common by the Homeowner's Association / or transferred to a public trust or conservancy agency approved by the Department of Planning and Building***. The open space parcel is to be maintained as such in perpetuity.

Landscape Plans

- ☐ ***If a drainage basin*** is required, then submit detailed landscaping plans in compliance with Section 22/23.04.180 et seq. to the Department of Planning and Building for review and approval prior to filing of the final parcel or tract map. Said plans to include location, species, size, and method of maintenance of all proposed plant materials. All proposed plant materials shall be of a drought tolerant variety and be sized to provide a mature appearance within three years of installation. Plan to include:
 - a. Drainage basin fencing. (*ONLY USE IF THE DRAINAGE BASIN HAS A DEPTH OF 2 FEET OR GREATER AS MEASURED FROM THE TOP OF THE RIM TO THE LOWEST PORTION OF THE BASIN*)
 - b. Drainage basin perimeter landscape screening. (*ONLY USE FOR FENCED BASINS*)
 - c. Landscaping for erosion control.
- ☐ All approved landscaping shall be installed or bonded for prior to filing of the final parcel or tract map and thereafter maintained in a viable condition on a continuing basis. If bonded for, landscaping shall be installed within _____ days of completion of the improvements.

Mitigations PUT ANY MITIGATIONS FROM DEVELOPER STATEMENT HERE **ONLY IF THEY CAN BE COMPLETED PRIOR TO THE RECORDATION OF THE MAP**

- ☐ _____
- ☐ _____

Additional Map Sheet

- ☐ The applicant shall prepare an additional map sheet to be approved by the county Department of Planning and Building and the Department of Public Works. The additional map sheet shall be recorded with the final parcel or tract map. The additional map sheet shall include the following:

CHOOSE APPLICABLE PROVISIONS

- a. That the owner(s) of lot(s) _____ is responsible for on-going maintenance of drainage basin fencing in perpetuity.
- b. That the owner(s) of lot(s) _____ is responsible for on-going maintenance of ***drainage basin / adjacent*** landscaping in a viable condition on a continuing basis into perpetuity.
- c. That secondary dwellings shall not be allowed on ***all lots within the land division / on lots*** _____.

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- d. Designated building sites (and access drives) shall be shown on the additional map sheet reflecting the approved tentative map. **At the time of application for construction permits**, the applicant shall clearly delineate the approved building site and access drive on the project plans.
- e. Notification to prospective buyers of the county's Right to Farm Ordinance currently in effect at any time said deed(s) are recorded.
- f. Notification of the consequences of existing and potential intensive agricultural operations on adjacent parcels including but not limited to noise, dust, odor and agricultural chemicals.
- g. An agricultural buffer prohibiting residential structures, consisting of _____ feet over lots _____, shall be shown on the additional map sheet. This buffer shall become null and void on individual parcels within this subdivision, if the adjacent Agriculture land use category is changed or if any existing commercial agricultural business on adjacent parcels effecting this subdivision cease operation for a minimum of one year. **At the time of application for construction permits**, the applicant shall clearly delineate the agricultural buffer on the project plans.
- h. The limits of inundation from a 100 year storm over lots _____ from _____ **creek / river** shall be shown on the additional map and note the required building restriction in the on the sheet.
- i. If improvements are bonded for, all public improvements (roads, drainage, and utilities) shall be completed prior to occupancy of any new structure.
- j. A notice that no construction permits will be given a final inspection until the fire safety conditions established in the letter dated _____ from the California Department of Forestry (CDF)/County Fire Department are completed. **Prior to occupancy or final inspection**, which ever occurs first, the applicant shall obtain final inspection approval of all required fire/life safety measures.
- k. Note to potential buyers and future owners of the property that the project is in an area from which combustion and petroleum-type odor complaints are frequently received by the Air Pollution Control District. The District Hearing Board has issued a nuisance abatement order which should improve the air quality in the Nipomo area; however, clean up is a lengthy process, therefore buyers of new lots should be advised that these conditions exist. *(ONLY USE IF WITHIN SOUTH COUNTY PLANNING AREA OR NEAR THE PLANT IN THE SAN LUIS BAY PLANNING AREA)*
- l. In the event archaeological resources are unearthed or discovered during any construction activities, the following standards apply:
- A. Construction activities shall cease, and the Environmental Coordinator and Planning Department shall be notified so that the extent and location of discovered materials may be recorded by a qualified archaeologist, and disposition of artifacts may be accomplished in accordance with state and federal law.
- B. In the event archaeological resources are found to include human remains, or in any other case where human remains are discovered during construction, the County Coroner is to be notified in addition to the Planning Department and Environmental Coordinator so that proper disposition may be accomplished.
- m. PUT ANY MITIGATIONS FROM DEVELOPER'S STATEMENT HERE **ONLY IF THEY GO BEYOND RECORDATION OF THE MAP** _____

Covenants, Conditions and Restrictions



The developer shall submit proposed covenants, conditions, and restrictions for the subdivision to the county Department of Planning and Building for review and approval. The CC&R's shall provide at a minimum the following provisions:

CHOOSE APPLICABLE PROVISIONS

- a. On-going maintenance of drainage basin fencing in perpetuity.
- ☒ b. On-going maintenance of **drainage basin / adjacent** landscaping in a viable condition on a continuing basis into perpetuity.
- b. Maintenance of drainage basin landscaping.
- ☒ c. Maintenance of common areas.
- d. Secondary dwellings shall not be allowed.
- e. Designated building sites (and access drives) shall be shown on an exhibit attached to the CC&R's reflecting the approved tentative map.
- f. Notification to prospective buyers of the county's Right to Farm Ordinance currently in effect at any time said deed(s) are recorded.
- g. Notification of the consequences of existing and potential intensive agricultural operations on adjacent parcels including but not limited to noise, dust, odor and agricultural chemicals.
- h. An agricultural buffer prohibiting residential structures, consisting of _____ feet over lots _____, shall be shown on an exhibit attached to the CC&R's. This buffer shall become null and void on individual parcels within this subdivision, if the adjacent Agriculture land use category is changed or if any existing commercial agricultural business on adjacent parcels effecting this subdivision cease operation for a minimum of one year.
- ☒ i. Maintenance of all local streets within the subdivision until acceptance by a public agency.
- j. The limits of inundation from a 100 year storm over lots _____ from _____ **creek / river** shall be shown on an exhibit attached to the CC&R's and note the required building restriction in the in the CC&R's.
- k. Note to potential buyers and future owners of the property that the project is in an area from which combustion and petroleum-type odor complaints are frequently received by the Air Pollution Control District. The District Hearing Board has issued a nuisance abatement order which should improve the air quality in the Nipomo area; however, clean up is a lengthy process, therefore buyers of new lots should be advised that these conditions exist. *(ONLY USE IF WITHIN SOUTH COUNTY PLANNING AREA OR NEAR THE PLANT IN THE SAN LUIS BAY PLANNING AREA)*
- l. _____

Low Cost Housing (USE IN COASTAL ZONE ONLY)

- ☐ Provide _____ residential units for low and moderate income families as defined by Section 50093 of the Health and Safety Code as part of the proposed project or elsewhere in the community. The agreement with the county for the development will include acknowledgment that it is feasible to provide a level of affordable housing in conjunction with this project. If qualified buyers have not purchased any of the _____ units within six months of the units being available for sale, and evidence can be provided that shows a reasonable advertising campaign was used to attract qualified buyers, the applicant may be relieved from the requirements to sell the units to qualified buyers.

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Miscellaneous

- ☒ This subdivision is also subject to the standard conditions of approval for all subdivisions using **community water and sewer / community water and septic tanks / individual wells and septic tanks**, a copy of which is attached hereto and incorporated by reference herein as though set forth in full.
- ☒ A stormwater pollution plan may be necessary from the Regional Water Quality Control Board. Provide evidence that it has been obtained or is unnecessary prior to filing the map.
- ☐ Applicant shall file with the Department of Public Works an application requesting apportionment of any unpaid assessments under the Improvement Bond Act of 1915, in compliance with Section 8740.1 of the Streets and Highways Code of the State of California. Said apportionment must be completed prior to filing the map.
- ☐ Prior to the sale of the designated remainder or omitted parcel, if applicable, the applicant shall obtain approval of a certificate of compliance or conditional certificate of compliance from the county.
- ☐ All timeframes on approved tentative maps for filing of final parcel or tract maps are measured from the date the Review Authority approves the tentative map, not from any date of possible reconsideration action.



JRC

SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

THIS IS A NEW PROJECT REFERRAL

DATE:

12/21/04

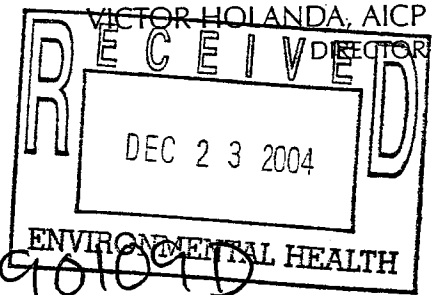
TO:

Env. Health

FROM:

Mike Wulkan

(Please direct response to the above)



Project Name and Number

D9901091D
TR 2251

Development Review Section (Phone:

788-2009)

*OR ASK THE SWITCH-
BOARD FOR THE PLANNERS

PROJECT DESCRIPTION:

TR. MAP. See planner letter.

Return this letter with your comments attached no later than:

1-16-05

PART I

IS THE ATTACHED INFORMATION ADEQUATE FOR YOU TO DO YOUR REVIEW?

____ YES (Please go on to Part II)
____ NO (Call me ASAP to discuss what else you need. We have only 30 days in which we must accept the project as complete or request additional information.)

PART II

ARE THERE SIGNIFICANT CONCERNS, PROBLEMS OR IMPACTS IN YOUR AREA OF REVIEW?

____ NO (Please go on to Part III)
____ YES (Please describe impacts, along with recommended mitigation measures to reduce the impacts to less-than-significant levels, and attach to this letter.)

PART III

INDICATE YOUR RECOMMENDATION FOR FINAL ACTION. Please attach any conditions of approval you recommend to be incorporated into the project's approval, or state reasons for recommending denial. IF YOU HAVE "NO COMMENT," PLEASE INDICATE OR CALL.

Environmental Health's concerns on this project are waste water. The parcels are too small for on-site septic systems. In order to meet the Basin Plan for the Regional Water Quality Control Board the parcels must be at least one acre or 1/2 acre if it can meet the particularly favorable requirement. Env. Health would not support

1-18-05
Date

X. Salo
Name

781-5551
Phone

the proposal for on-site systems.

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**AIR POLLUTION
CONTROL DISTRICT**
COUNTY OF SAN LUIS OBISPO

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JAN 21 2004

SLO CO PLANNING & BLDG.

DATE: January 20, 2005

TO: Mike Wulkan, Senior Planner
San Luis Obispo County Department of Planning and Building

FROM: Andy Mutziger, Air Quality Specialist **ASM**
San Luis Obispo County Air Pollution Control District

SUBJECT: Anastasi Residential Development -- Los Osos (DP D990109D)

Thank you for including the APCD in the environmental review process for this re-referral. We have completed our review of the proposed residential in-fill project located on the east side of Pecho Valley Road, approximately 350 feet south of Montana Way in the community of Los Osos. The project will develop 9.1 acres with 40 single family residential homes, a park and detention basins. *The following are APCD comments that are pertinent to this project.*

GENERAL COMMENTS

As a commenting agency in the California Environmental Quality Act (CEQA) review process for a project, the APCD assesses air pollution impacts from both the construction and operational phases of a project, with separate significant thresholds for each. **Please address the action items contained in this letter that are highlighted by bold and underlined text.**

SPECIFIC COMMENTS

CONSTRUCTION PHASE MITIGATION:

Naturally Occurring Asbestos

The project site is located in a candidate area for Naturally Occurring Asbestos (NOA), which has been identified as a toxic air contaminant by the California Air Resources Board (ARB). Under the ARB Air Toxics Control Measure (ATCM) for Construction, Grading, Quarrying, and Surface Mining Operations, **prior to any grading activities at the site, the project proponent shall ensure that a geologic evaluation is conducted to determine if NOA is present within the area that will be disturbed. If NOA is not present, an exemption request must be filed with the District (see Attachment 1). If NOA is found at the site the applicant must comply with all requirements outlined in the Asbestos ATCM.** This may include development of an Asbestos Dust Mitigation Plan and an Asbestos Health and Safety Program for approval by the APCD. Please refer to the APCD web page at <http://www.slocleanair.org/business/asbestos.asp> for more information or contact Karen Brooks of our Enforcement Division at 781-5912.

Dust Control Measures

Construction activities can generate fugitive dust, which could be a nuisance to local residents and businesses in close proximity to the proposed construction site. Dust complaints could result in a violation of the APCD's 402 "Nuisance" Rule. Any project with a grading area greater than

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4 acres exceeds the APCD's PM10 threshold. **This project exceeds this threshold and shall be conditioned to comply with all applicable Air Pollution Control District regulations pertaining to the control of fugitive dust (PM10) as contained in section 6.5 of the Air Quality Handbook. All site grading and demolition plans noted shall list the following regulations:**

- a. Reduce the amount of the disturbed area where possible.
- b. Use of water trucks or sprinkler systems in sufficient quantities to prevent airborne dust from leaving the site. Increased watering frequency would be required whenever wind speeds exceed 15 mph. Reclaimed (nonpotable) water should be used whenever possible.
- c. All dirt stock pile areas should be sprayed daily as needed.
- d. Permanent dust control measures identified in the approved project revegetation and landscape plans should be implemented as soon as possible following completion of any soil disturbing activities.
- e. Exposed ground areas that are planned to be reworked at dates greater than one month after initial grading should be sown with a fast germinating native grass seed and watered until vegetation is established.
- f. All disturbed soil areas not subject to revegetation should be stabilized using approved chemical soil binders, jute netting, or other methods approved in advance by the APCD.
- g. All roadways, driveways, sidewalks, etc. to be paved should be completed as soon as possible. In addition, building pads should be laid as soon as possible after grading unless seeding or soil binders are used.
- h. Vehicle speed for all construction vehicles shall not exceed 15 mph on any unpaved surface at the construction site.
- i. All trucks hauling dirt, sand, soil, or other loose materials are to be covered or should maintain at least two feet of freeboard (minimum vertical distance between top of load and top of trailer) in accordance with CVC Section 23114.
- j. Install wheel washers where vehicles enter and exit unpaved roads onto streets, or wash off trucks and equipment leaving the site.
- k. Sweep streets at the end of each day if visible soil material is carried onto adjacent paved roads. Water sweepers with reclaimed water should be used where feasible.

All PM10 mitigation measures required should be shown on grading and building plans. In addition, the contractor or builder should designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite. Their duties shall include holidays and weekend periods when work may not be in progress. **The name and telephone number of such persons shall be provided to the APCD prior to land use clearance for map recordation and finished grading of the area.**

Developmental Burning

Effective February 25, 2000, **the APCD prohibited developmental burning of vegetative material within San Luis Obispo County.** Under certain circumstances where no technically feasible alternatives are available, limited developmental burning under restrictions may be allowed. This requires prior application, payment of fee based on the size of the project, APCD approval, and issuance of a burn permit by the APCD and the local fire department authority.

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The applicant is required to furnish the APCD with the study of technical feasibility (which includes costs and other constraints) at the time of application. If you have any questions regarding these requirements, contact Karen Brooks of our Enforcement Division at 781-5912.

Residential Wood Combustion

Under APCD Rule 504, **only APCD approved wood burning devices can be installed in new dwelling units.** These devices include:

- All EPA-Certified Phase II wood burning devices;
- Catalytic wood burning devices which emit less than or equal to 4.1 grams per hour of particulate matter which are not EPA-Certified but have been verified by a nationally-recognized testing lab;
- Non-catalytic wood burning devices which emit less than or equal to 7.5 grams per hour of particulate matter which are not EPA-Certified but have been verified by a nationally-recognized testing lab;
- Pellet-fueled woodheaters; and
- Dedicated gas-fired fireplaces.

If you have any questions about approved wood burning devices, please contact Tim Fuhs of our Enforcement Division at 781-5912.

OPERATIONAL PHASE MITIGATION:

The APCD staff considered the operational impact this residential development by running the URBEMIS2002 computer model, a tool for estimating vehicle travel, fuel use and the resulting emissions related to this project's land uses. This indicated that operational phase impacts will likely be less than the APCD's CEQA Tier I significance threshold value of 10 lbs of emissions per day. Therefore, APCD is not requiring any operational phase mitigation measures for this project.

Again, thank you for the opportunity to comment on this proposal. If you have any questions or comments, or if you would like to receive an electronic version of this letter, feel free to contact me at 781-5912.

AJM/sll

cc: Karen Brooks, Enforcement Division
Tim Fuhs, Enforcement Division

Attachment

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Naturally Occurring Asbestos – Construction & Grading

Project – Exemption Request Form

Send To:

Attachment 1

San Luis Obispo County Air
Pollution Control District
3433 Roberto Court
San Luis Obispo, CA 93401

Fax: (805) 781-1002



Applicant Information/ Property Owner		Project Name	
Address		Project Address and /or Assessors Parcel Number	
City, State, Zip		City, State, Zip	
Phone Number	Date Submitted	Agent	Phone Number

The District may provide an exemption from Section 93105 of the California Code of Regulations - Asbestos Airborne Toxic Control Measure For Construction, Grading, Quarrying, And Surface Mining Operations for any property that has any portion of the area to be disturbed located in a geographic ultramafic rock unit; if a registered geologist has conducted a geologic evaluation of the property and determined that no serpentine or ultramafic rock is likely to be found in the area to be disturbed. Before an exemption can be granted, the owner/operator must provide a copy of a report detailing the geologic evaluation to the District for consideration. The District will approve or deny the exemption within 90 days. An outline of the required geological evaluation is provided in the District handout "ASBESTOS AIRBORNE TOXIC CONTROL MEASURES FOR CONSTRUCTION, GRADING, QUARRYING, AND SURFACE MINING OPERATIONS – Geological Evaluation Requirements".

APPLICANT MUST SIGN BELOW:

I request the San Luis Obispo Air Pollution Control District grant this project exemption from the requirements of the ATCM based on the attached geological evaluation.

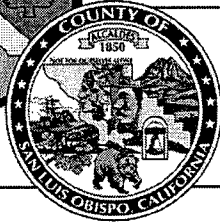
Legal Declaration/Authorized Signature:

Date:

OFFICE USE ONLY - APCD Required Element – Geological Evaluation

APCD Staff:		Intake Date:	OIS Tracking Number:
Approved	Not Approved	APCD Staff:	Date Reviewed:
Comments:			

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CDF/San Luis Obispo County
Fire Department

635 N. Santa Rosa • San Luis Obispo • California 93405

January 25, 2005

County of San Luis Obispo
Department of Planning and Building
County Government Center
San Luis Obispo, CA 93408

Subject: Tract Map Project # Tract 2251/ Anastasi Development Co.

Dear Mr. Mike Wulkan,

I have reviewed the referral for the tract map plans for the proposed 42 parcel subdivision project located at Pecho Rd., Los Osos. This project is located approximately 5 minutes from the closest CDF/San Luis Obispo County Fire Station. The project is located in State Responsibility Area for wildland fires. It is designated a High Fire Severity Zone. This project is required to comply with all fire safety rules and regulations including the California Fire Code, the Public Resources Code and any standards referenced therein.

The following conditions will apply to this project:

Access Road

An access road must be constructed to CDF/County Fire standards when it serves more than one parcel; access to any industrial or commercial occupancy, or vehicular access to a single parcel with more than two buildings or four or more dwelling units.

- The maximum length of a dead end road, including all dead-end roads accessed from that dead-end road, shall not exceed the following cumulative lengths, regardless of the number of parcels served:

○ Parcels less than 1 acres	800 feet
○ Parcels 1 acre to 4.99 acres	1320 feet
○ Parcels 5 acres to 19.99 acres	2640 feet
○ Parcels 20 acres or larger	5280 feet
- The road must be 18 feet in width and an all weather surface.
- If the road exceeds 12% it must have a non-skid paved surface.
- Roads may not exceed 16% without special mitigation and shall not exceed 20%

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Planning & Building

- All roads must be able to support a 20 ton fire engine.
- Road must be named and addressed including existing buildings.
- A turnaround must be provided if the road exceeds 150 feet.
- Vertical clearance of 13'6" is required.

Driveway

A driveway is permitted when it serves no more than two buildings, with no more than 3 dwelling units or a single parcel, and any number of accessory buildings.

- Driveway width for high and very high fire severity zones:
 - 0-49 feet, 10 feet is required
 - 50-199 feet, 12 feet is required
 - Greater than 200 feet, 16 feet is required
- Turnarounds must be provided if driveway exceeds 300 feet.

Water Supply

The following applies:

☒ This project will require a community water system which meets the minimum requirements of the Appendix III-A & III-B of the California Fire Code.

☐ A water storage tank with a capacity determined by a factor of the cubic footage of the structure will be required to serve each existing and proposed structure. A residential fire connection must be located within 50 to 150 feet of the buildings.

Fuel Modification

- Vegetation must be cleared 10 feet on each side of the driveways and access road.
- Maintain around all structures a 30 foot firebreak. This does not include fire resistive landscaping.
- Remove any part of a tree that is within 10 feet of a chimney.
- Maintain any tree adjacent to or overhanging any building free of deadwood.
- Maintain the roof of any structure free of leaves, needles or other flammable material.

If I can provide additional information or assistance, please call 543-4244.

Sincerely,



Gilbert R. Portillo
Fire Inspector

cc: Anastasi Development Co.

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MEMO

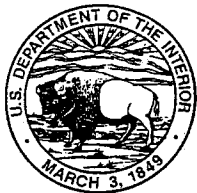
TO: Mike Wulkan
FROM: Jan Di Leo
DATE: February 10, 2005
SUBJECT: Anastasi Construction, D990109D/S970007T/TR 97-2251

This memo is regarding the Anastasi Referral dated December 21, 2004. The following are Parks Division's required conditions.

1. The applicant shall pay Quimby fees and applicable Building Division fees.
2. If the applicant is interested in pursuing a Quimby Credit for the proposed park they should contact me as soon as possible.
3. The applicant shall provide a 25 foot wide trail corridor along the property's southern perimeter extending from Lot 20 (on the east) to the western boundary of Lot 33. The trail may be offered in fee or easement at the time of final map clearance. The location and design of the trail corridor shall be reviewed and approved by the Parks Division prior to the issuance of final map approval or Improvement Plan approval, whichever occurs first.

If you have any questions regarding this memo please contact me at (805) 781-4089. THANKS!

cc: Anastasi Development, 1200 Aviation Blvd., Suite 100, Redondo Beach, CA 90278
Cannon Associates, 364 Pacific Street, San Luis Obispo, CA 93401



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Ventura Fish and Wildlife Office
2493 Portola Road, Suite B
Ventura, California 93003



IN REPLY REFER TO:
PAS 471.504.2493

November 2, 2004

Mike Wulken, Senior Planner
San Luis Obispo County
Department of Planning and Building
County Government Center
San Luis Obispo, California 93408

Subject: Request to Respond to Questions Regarding Anastasi "Farm" Property
(APN# 074-025-010).

Dear Mr. Wulken:

We received your letter dated August 11, 2004, on August 12, 2004. You requested we respond to the following 6 questions regarding a proposal from Anastasi Development Company (Anastasi), for a vesting tentative tract and development to allow subdivision of an existing 9.1-acre parcel into 42 parcels ranging from 6,000 to 15,022 square feet.

Question 1. "Do you have any comments/concerns regarding impacts to biological resources as a result of this project, considering there was no vegetation on the site as of February 2004?"

Yes. We believe Anastasi's grading of the subject property has likely resulted in take of the federally the endangered Morro shoulderband snail (*Helminthoglypta walkeriana*), and our Division of Law Enforcement has opened an investigation into potential violations of the Endangered Species Act of 1973, as amended.

Question 2. "Are significant impacts to biological resources likely as a result of the project?"

We do not know the current status of the Morro shoulderband snail on the subject property. However, the Habitat Conservation Plan (HCP) provided by Anastasi in November 2003, documented the presence of a live Morro shoulderband snail in a previously disturbed area, mapped as "tilled".

Question 3. "Should a new study be done to determine if vegetation growth has occurred since February 2004?"

We are aware that heavy equipment was operated on the subject property during July and September 2004, and that most, if not all, of the vegetation has now been removed.

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